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STATUS OF THE DEPARTMENT OF JUSTICE ORGANIZED CRIME STRIKE FORCES

JOINT HEARING

BEFORE THE

COMMITTEE ON THE JUDICIARY

AND THE

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS

UNITED STATES SENATE

ONE HUNDRED FIRST CONGRESS

FIRST SESSION

ON

THE ATTORNEY GENERAL'S PLAN TO ABOLISH THE JUSTICE DEPARTMENT'S ORGANIZED CRIME STRIKE FORCES

SEPTEMBER 8, 1989

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STATUS OF THE DEPARTMENT OF JUSTICE ORGANIZED CRIME STRIKE FORCES

FRIDAY, SEPTEMBER 8, 1989

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
AND COMMITTEE ON GOVERNMENT AFFAIRS,
Washington, DC.

The committees met, pursuant to notice, at 9:03 a.m., in room SD-106, Dirksen Senate Office Building, Hon. Joseph R. Biden, Jr., chairman of the Judiciary Committee, and Hon. Sam Nunn, chairman of the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, presiding.

Also present: Senators Thurmond, Kennedy, Hatch, DeConcini, Grassley, Specter, Simon, Glenn, Rudman, Lieberman, and Cohen.

OPENING STATEMENT OF COCHAIRMAN BIDEN

Cochairman BIDEN. The hearing will come to order.

This is a joint hearing being held this morning, and we are grateful that our colleagues are here, and even more grateful that the witnesses, including the Attorney General, are here today.

The Committees on the Judiciary and Governmental Affairs are holding this hearing on the Attorney General's plan to abolish the Justice Department's Organized Crime Task Forces. This joint hearing reflects the longstanding interest of members of both committees in the Government's efforts to eradicate the criminal syndicates that have plagued our country throughout most of this century.

Earlier this year when I first heard of the Attorney General's plan to merge the strike force units into U.S. attorney's offices, I wrote him to express my concern. Along with other members of these committees, I also met with the Attorney General and suggested that it would be in the interests of all to have this issue thoroughly explored in a public hearing before any action was taken.

This is an issue that has two sides and I have an open mind. The Attorney General will argue forcefully, as he did at our private meeting, that this is a management issue and not a matter of policy, and that he seeks only to streamline the Justice Department's lines of authority.

Other very well respected people, including former U.S. attorneys, former strike force chiefs, and others, will argue with equal force that this is the prime example of a management issue with serious policy implications. They will note that the strike forces have been extraordinarily successful and that their continued existence and independence as units is necessary to ensure continuity in the fight against organized crime.

I, for one, will listen with great interest to both sides of this argument, for it is a very serious issue. Whatever is done, the Department of Justice must maintain its crusade, and will maintain its crusade against organized crime even as it moves against emerging criminal syndicates—the street gangs, the motorcycle gangs, the Jamaican posses, the Chinese heroin smugglers, and others who traffic in drugs and who may be in the process of becoming the Mafia families of the next century.

With that, I would have yielded to Senator Nunn, but he unfortunately will be delayed slightly. There is a defense conference with the House that is going on right now and he will be here as soon as he can.

I yield to my colleague on the Judiciary Committee, Senator Thurmond.

OPENING STATEMENT OF SENATOR THURMOND

Senator THURMOND. Thank you, Mr. Chairman.

Mr. Chairman, today we are present to hear testimony on the Department of Justice's plan to consolidate the Organized Crime Strike Forces with the U.S. attorneys' offices. The Attorney General's proposal has been extensively debated, with strong arguments made both by those opposed and in support of consolidation.

The Organized Crime Strike Forces, field offices of the Department of Justice's Organized Crime and Racketeering Section, were first established by the Department in late 1966. Over the years, the number of strike forces has grown. There are currently 14 strike forces, with 11 suboffices, in operation throughout the United States. Their purpose is to plan and coordinate a unified Federal effort against organized crime.

Federal efforts against organized crime, including those of the strike forces, have resulted in numerous prosecutions and convictions of leaders of traditional organized crime families.

Despite this success, many have concluded, including Attorney General Thornburgh and the General Accounting Office, that all of the mechanisms required for a coordinated Federal effort against organized crime are not being fully utilized. In addition, there have been reported conflicts and competition in recent years between strike forces and various U.S. attorneys' offices.

In an effort to eradicate these turf battles between the strike forces and the U.S. attorneys, and in an effort to improve the Justice Department's effectiveness in its efforts against organized crime, Attorney General Thornburgh has announced his intention to consolidate the strike force units within 23 U.S. attorneys' offices.

The plan calls for the creation of an Organized Crime Council to oversee the national effort against organized crime and for the enhancement of the Organized Crime and Racketeering Section of the Department's Criminal Division.

Attorney General Thornburgh has stated his conviction that the new organized structure will not only strengthen the Department of Justice's efforts against traditional organized crime families, but that it will also enhance efforts against new organized crime elements, such as those in the Asian communities and among gangs and Jamaican crime groups.

Critics of the consolidation proposal cite the possibility that U.S. attorneys may shift resources away from the strike forces. Critics also note that the strike forces are not currently limited to territorial jurisdiction and that many U.S. attorneys' office do not have the capability or inclination to handle complex organized crime cases. These are legitimate concerns.

Recently, several Senators, including myself, met with the Attorney General to discuss his proposal. Reasons both for and against the merger were presented at this meeting. While I will consider the testimony presented today, after considerable discussion of this matter I have concluded that the Attorney General has the clear authority to implement his proposal. For this reason, I support his decision to merge the strike forces into the U.S. attorneys' offices.

The Department of Justice created the Organized Crime Strike Forces. The creation of the strike forces was an administrative decision, and the decision to consolidate them with the U.S. attorneys' offices is also an administrative decision within the Attorney General's discretion. Congress should not be in the business of micromanaging the Department of Justice.

Mr. Chairman, I look forward to today's testimony. Thank you very much.

Cochairman BIDEN. Thank you.

Senator Kennedy.

OPENING STATEMENT OF SENATOR KENNEDY

Senator KENNEDY. Thank you, Mr. Chairman.

For two decades, the Justice Department's Organized Crime Strike Forces have been a fundamental part of the Nation's anticrime strategy. The strike forces have brought the full force of the criminal law to bear against organized crime. Their impressive achievements are writing large indictments, prosecutions, and convictions of numerous mob figures.

Kingpins, once beyond the law, now serve time for their crimes or have died in prison. Strike force prosecutions of organized crime have effectively brought down entire mob families which had long dominated crime syndicates throughout the country.

National coordination and long-term investigative ability are the heart of the strike force concept. These principles are as valid today as they have ever been against the organized crime menace.

Yet, today, as the drug trade and youth gangs bring a dangerous new dimension to the organized crime threat, the Department of Justice is bent on disarming the strike force program when we need it most. To disband the strike forces and attempt to reconstitute them in the U.S. attorney's office would be to send a clear message to criminal syndicates that the heat is off. Just when we need all hands on deck in the war on crime and drugs, we would be abandoning a technique of proven effectiveness against organized crime.

The rationale for the strike force concept is as applicable in the 1980's and 1990's as it was when they were created in the 1960's. Instead of waging separate, fragmented miniwars on organized crime through 94 U.S. attorneys, the strike forces are able to target larger regions of the country and mount coordinated investigations where criminal activities respect neither legal nor geographical boundaries.

In the recent "Straw Man" trial in Kansas City, mob leaders in Chicago, Milwaukee, Cleveland, Las Vegas, and Kansas City were convicted. Last year, the New England Strike Force obtained convictions against the Angiulo crime family when operations were spread throughout New England.

Inevitably, because the strike forces are centralized operations run out of the Justice Department in Washington, some U.S. attorneys resent their lack of control over investigations and prosecutions on their home turf.

We have no objection to Justice Department management decisions that disband individual strike forces or create new ones, as has been done in the past. But those decisions continue to be made on a case-by-case basis in response to the needs of particular jurisdictions. A policy of terminating all strike forces to assuage the egos of U.S. attorneys would be a triumph of ideology over common sense in Federal law enforcement.

I respect Attorney General Thornburgh, but as a former U.S. attorney himself, he has a longstanding record of siding with U.S. attorneys against strike forces in this turf battle.

But that was then and this is now. I believe the Attorney General has an obligation to stand above that old fray in making this far-reaching decision that will affect not only his Department, but the Nation and our success in the war on crime and drugs.

I am also concerned about the other reports that worthwhile ideas for the national drug strategy have been rejected or watered down because of turf objections raised by the Justice Department or the State Department.

The issue before us today is exactly the point that President Bush was making last Tuesday in his address to the Nation on drugs. It is time to move beyond these petty turf battles and implement a national strategy on crime and drugs that can get the job done. "Turf battles won't win this war," the President said; "teamwork will."

Why do organized crime a favor? Strike forces have performed an indispensable role in this aspect of the war on crime under both Republican and Democratic administrations and they are needed now more than ever.

Thank you.

Cochairman **Biden**. Thank you, Senator.

Senator Hatch.

OPENING STATEMENT OF SENATOR HATCH

Senator **Hatch**. Thank you, Mr. Chairman. I am happy to be here today. I think this is a very important hearing and I am glad to have the opportunity to discuss with the Attorney General his plan to consolidate the Organized Crime Strike Forces and the U.S. attorneys offices.

Now, in discussing this subject, I think it is important to really be clear at the start on two points. First, no one doubts the dedication of the Department of Justice to the continuing and necessary fight against organized crime, and it would be incorrect for anyone to view the proposed reorganization of the Department as any form of retreat from the Department's commitment to that task.

Secondly, I believe it should be recognized that the decision to fight organized crime by means of the strike forces or through the more traditional structure of the U.S. attorney's office is essentially a management decision entrusted to the Attorney General of the United States. We recognize that.

But to the extent that legislation or congressional oversight can contribute to the more effective reorganization of the Department of Justice, the Judiciary Committee is properly concerned with this subject. But I don't think any of us would want anybody coming in and telling us how to administer our offices or how to act as executives in our particular positions.

I personally believe that this Attorney General and this present Justice Department and the predecessor Attorneys General over the last 10 years have been doing some of the finest work in the area of criminal law enforcement that this country has ever seen.

I don't hear any more complaints about white collar criminals being indicted and convicted and sentenced to jail. Let me tell you, these Attorneys General, including our present Attorney General, have done a terrific job in indicting and prosecuting these people.

Yes, the strike forces have been effective in eight cities in this country, but I think it is a real failure if you don't recognize what all the U.S. attorneys throughout this country have really meant to this country and have done for this country over the last 10 or 12 years, and preceding that as well.

The need for thorough and effective prosecution against organized crime cannot be stressed enough. In addition to the more traditional forms of racketeering, it must be recognized that the role of organized crime in promoting and facilitating the current drug epidemic is very, very substantial.

To the extent that the Justice Department, whether through the strike forces or through the U.S. attorneys, succeeds in breaking up these criminal enterprises, it carries forward the President's war on drugs.

And if the Attorney General, whom I know very well, happens to believe that the best way to do this from a management standpoint is through a coordinated use of the U.S. attorneys in this country, then I think we ought to maybe give great heed and consideration to what he thinks and what he believes.

As to the specifics of the reorganization, it is good to see that there will be no reduction in positions dedicated to the organized crime effort. I believe it is also important that the organized crime units will retain the name of, "strike force," as proposed, in order to facilitate public recognition and to ensure the continuity of the mission of the strike forces.

On the other hand, I am aware of the concerns raised by the dedicated career prosecutors who have submitted testimony opposing the proposed reorganization. I have an open mind as to the merits of their criticisms, and hope that, where valid, their recommendations can be incorporated in the reorganization plan.

I intend to give strict heed and an awful lot of credibility to whatever the Attorney General of the United States would like to do. He has got the job; he is doing the job, his people are doing the job, and he needs our backing to see that they continue to do the job in the best interests of this country and the best interests of the American people.

I am pleased that the Department of Justice is reexamining the effectiveness of its efforts against organized crime. While much has been done, particularly in recent years, to neutralize the pernicious influence of organized crime, we all know much remains to be done.

The Judiciary Committee must always be ready to work with the Department of Justice whenever we can aid them in this continuing battle, and I am not sure that a lot of rhetoric about how one person thinks things ought to be done vis-a-vis another person is really the answer to these problems.

I think we should give some credibility and heed to those who are right on the front lines, to those who have to administer the troops, to those who manage and direct them, and listen very carefully to what they would like to do.

General Thornburgh and Secretary Skinner, we are certainly happy to have you with us here today, as we are all witnesses. We welcome you all to the committee.

Cochairman BIDEN. Senator Nunn, who is cochairing this hearing, is here.

Cochairman NUNN. Mr. Chairman, let me come back on my opening statement. I would rather not get in front of people who have already been here. We had the beginning of our conference on the procurement bill this morning and I had to be there at the beginning.

So I am delighted to have the opportunity to cochair this with you and I will waive my time until further——

Cochairman BIDEN. Well, let me ask a question. Does anyone else here have an opening statement? They are not required. We have 14 witnesses.

Senator Grassley.

OPENING STATEMENT OF SENATOR GRASSLEY

Senator GRASSLEY. Mr. Chairman, I want to place a written statement in the record; however, I do have a bottom line. I start from the proposition: Why change what appears to be working? Yet, on the other hand, I have a responsibility to consider the Attorney General's suggestions. So, I am here to listen.

Mr. Attorney General, I would like you to be as candid as you can. Regardless of how good you think your proposal may be, it is not necessarily perfect. There has got to be some downside. I would appreciate a candid discussion from you regarding what you feel might be some of the risks with the proposed changes you are making.

[The prepared statement of Senator Grassley follows:]

STATEMENT OF SENATOR CHARLES E. GRASSLEY

REGARDING THE DEPARTMENT OF JUSTICE'S ORGANIZED CRIME STRIKE FORCE OFFICES

SEPTEMBER 8, 1989

MR. CHAIRMAN, THANK YOU FOR HOLDING THIS JOINT HEARING OF THE SENATE JUDICIARY COMMITTEE AND THE SENATE GOVERMENT AFFAIRS COMMITTEE.

I ALSO WANT TAKE THIS OPPORTUNITY TO ADD MY WELCOME TO THE ATTORNEY GENERAL AND TO THANK HIM FOR APPEARING BEFORE THIS JOINT HEARING TO EXPLAIN THE REASONS BEHIND HIS PROPOSED CONSOLIDATION OF THE DEPARTMENT'S ORGANIZED CRIME STRIKE FORCES INTO SOME OF THE DEPARTMENT'S U.S. ATTORNEYS' OFFICES AROUND THE COUNTRY.

WE ARE HERE TODAY BECAUSE IN APRIL, THE GENERAL ACCOUNTING OFFICE ISSUED A REPORT THAT CONCLUDED "THE (DEPARTMENT OF JUSTICE'S ORGANIZED CRIME) STRIKE FORCES HAVE NOT FULLY MET EXPECTATIONS FOR PLANNING AND COORDINATING FEDERAL EFFORTS AGAINST ORGANIZED CRIME" AND WHICH NOTED THE ADVANTAGES OF MERGING THE STRIKE FORCES OFFICES INTO THE U.S. ATTORNEYS OFFICES, WHILE TAKING NO POSITION REGARDING THE ISSUE OF RE-ASSIGNING THE STRIKE FORCE OFFICES.

SUBSEQUENTLY, IN JUNE, THE ATTORNEY GENERAL STATED HIS INTENTION TO RE-DIRECT THE JUSTICE DEPARTMENT'S EFFORTS REGARDING THE PROSECUTION OF CRIMINAL PROCEEDINGS AGAINST ORGANIZED CRIME.

THE ATTORNEY GENERAL HAS ANNOUNCED HIS INTENTION TO RE-ASSIGN THE 135 LAWYERS OF THE 14 REGIONAL STRIKE FORCE OFFICES -- ESTABLISHED IN 1967 -- INTO THE OFFICES OF 23 U.S. ATTORNEYS BY OCTOBER 1st, 1989, WHERE THEY WILL STAFF ORGANIZED CRIME UNITS.

THE ATTORNEY GENERAL STATED HIS BELIEF THAT A CONSOLIDATION BETWEEN THE UNITED STATES ATTORNEYS' OFFICES AND THE ORGANIZED CRIME STRIKE FORCES WOULD INSURE THAT THE JUSTICE DEPARTMENT'S EFFORTS AGAINST ORGANIZED CRIME WOULD BE UNIFIED, COMPREHENSIVE, AND EFFICIENT.

THE ATTORNEY GENERAL IS APPARENTLY CONCERNED THAT THE PRESENT STRUCTURE BETWEEN THE U.S. ATTORNEYS' OFFICES AND THE ORGANIZED CRIME STRIKE FORCES FOSTERS TURF AND JURISDICTIONAL STRUGGLES; CAUSES INNEFFICIENT DUPLICATION OF DEPARTMENT RESOURCES; SPLINTERS DECISIONS-MAKING; HINDERS THE DEPARTMENT'S ACCOUNTABILITY, EFFICIENT PLANNING AND COORDINATION; AND FOSTERS "PROSECUTOR SHOPPING" BY FEDERAL INVESTIGATIVE AGENCIES BETWEEN THE U.S. ATTORNEYS' OFFICES AND THE STRIKE FORCES.

HOWEVER, SOME HAVE VOICED CONCERNS ABOUT THE ATTORNEY GENERAL'S PROPOSAL. THEY CONTEND THAT GIVEN THE SUCCESS OF THE ORGANIZED CRIME STRIKE FORCE PROGRAM OVER THE PAST 20 YEARS, A DECISION TO ABOLISH THE STRIKE FORCES COULD HAMPER THE CAPABILITIES OF FEDERAL LAW ENFORCEMENT IN THE FIGHT AGAINST ORGANIZED CRIME.

THOSE WHO ARE CONCERNED WITH THE PLAN TO MERGE THE STRIKE FORCES INTO EXISTING U.S. ATTORNEYS' OFFICES BELIEVE THAT THE PRESENT STRUCTURE HAS WORKED WELL, IS NOT BROKEN, AND IS NOT IN NEED OF ANY FIXING.

IN FACT, OPPONENTS OF THE CONSOLIDATION BELIEVE THAT THE TIMING OF THE ATTORNEY GENERAL'S PROPOSAL SENDS THE WRONG SIGNAL, WHICH MAY ULTIMATELY LEAD TO AN AN INCAPACITATED FEDERAL LAW ENFORCEMENT EFFORT DURING THE COMING CONFRONTATION WITH THOSE FOREIGN AND DOMESTIC CRIME ORGANIZATIONS ENGAGED IN ILLEGAL DRUG TRAFFICKING.

FINALLY, OPPONENTS OF THE ATTORNEY GENERAL'S PROPOSAL BELIEVE THAT IT IS NOTHING MORE THAN A TURF BATTLE BETWEEN ELEMENTS WITHIN THE DEPARTMENT, HAVING NOTHING TO DO WITH INCREASED EFFICIENCY OR BETTER COORDINATION OF THE FEDERAL GOVERNMENT'S PROSECUTION OF CASES AGAINST ORGANIZED CRIME.

TODAY'S HEARING IS AN OPPRTUNITY FOR THOSE ON BOTH SIDES OF THIS ISSUE TO AIR THEIR VIEWS BEFORE OUR COMMITTEES REGARDING THE MERITS OF SEPARATE OR CONSOLIDATED ORGANIZED CRIME STRIKE FORCE UNITS.

I LOOK FORWARD TO HEARING FROM THE ATTORNEY GENERAL AND FROM OUR OTHER WITNESSES.

Cochairman **Biden**. Thank you very much, Senator.
Senator DeConcini.

OPENING STATEMENT OF SENATOR DeCONCINI

Senator **DeConcini**. Mr. Chairman, thank you very much, and I am going to put my full statement in the record. I share much of the same concern that Senator Grassley, the Senator from Iowa, pointed out.

Mr. Attorney General in 1974, as a U.S. attorney, you were on an advisory subcommittee, and I understand you recommended merger of strike forces at that time. However, I notice that the Attorney General's office only merged, to my knowledge, one major strike force; no other mergers took place. You also made recommendations for this to happen under Attorney General Meese and he elected not to.

I think it is important that the Attorney General have the flexibility to run this office. What I think we are here for is not to criticize him and to seek out why we are going to do better than what we are doing.

Quite frankly, the success on organized crime by the Justice Department with this Attorney General and previous Attorneys General, though we may have had some differences of agreement on some subject matters, has been quite good. And I am deeply concerned, having been involved as a prosecutor myself and seen strike forces having a successful effort, to now see this abandoned.

Though, in the proposal, there is no loss of personnel or people dedicated to prosecution of organized crime, I am interested in learning how the reorganization will effect my home State. In Arizona we have an outstanding U.S. attorney, Mr. McNamee. At times, he has relied on the strike force out of Los Angeles. We have a number of criminal elements in the organized crime families that visit, invest, and operate in Arizona. With this strike force being integrated, I presume, into the Los Angeles office, who is going to fill the resulting gap?

And we get back, Mr. Chairman, to the same problem we have with the President's drug strategy and policy. If we are going to make some changes, we need to know what they are going to cost if we are going to maintain the same kind of effectiveness.

So I welcome the Attorney General here. I realize his dedication to the fight against organized crime, and I look forward to his candid responses as to how this will effect Arizona, or any other State that doesn't have the strike force actually in the State.

Thank you, Mr. Chairman.

[The prepared statement of Senator DeConcini follows:]

Senator DeConcini Statement on Organized Crime Strike Forces

Thank you Mr. Chairman. I am pleased to participate in today's hearing, and applaud you for conducting this hearing on such an important issue.

Welcome, Attorney General Thornburgh. As you are aware, I have a keen interest in the criminal law area, especially when related to the illegal drug trade. Consequently, I am most interested in learning the details of your proposal to streamline Federal prosecution of organized crimes by eliminating the Organized Crime Strike Forces. I commend you for your desire to conduct criminal prosecutions in this area more efficiently. And I would heartily endorse a plan that would achieve that goal. I am, however, concerned that a plan which eliminates the Justice Department's Regional Organized Crime Strike Forces may be counterproductive to waging a successful campaign against organized crime.

Since their inception in the late 1960s, the srike forces have established a solid record of successful investigations and prosecutions. In the past five years alone, these strike forces have scored extraordinary victories against criminal organizations in Boston, Chicago, Detroit, Buffalo, Cleveland, Philadelphia, Kansas City, Brooklyn, and other major American citiies. As a result of strike force efforts, many organized crime leaders have been brought to justice.

I, for one, do not believe such success can be lightly brushed aside. As the record demonstrates, these strike forces are an effective tool against organzied crime.

I understand that proponents of the change suggest that it is more managerial than substantive, and that there really won't be any change in the number of prosecutions. And this may be the case. Yet, I am concerned that by absorbing the strike forces into United States attorneys offices, the wrong message may be sent to criminals engaged in organized crime. This is not intended to slight the U.S. attorneys offices. In my home State for example, we have what I would characterize as a very highly motivated group of dedicated individuals, led by an extremely qualified U.S. attorney, Stephen McNamee. But if the strike force working out of Los Angeles was disbanned, the Arizona U.S. attorney's office would be responsible for organized crime prosecutions in addition to the already overburdensome caseload. I would think the organized criminals operating in Arizona would be quick to increase their activities knowing of the limited resources available to the U.S. attorney's office.

As I have indicated, I am open to the proposal being discussed today. Nevertheless, I would also suggest that we should give thorough consideration to the proposal before tampering with a successful formula.

Mr. Chairman, I am eager to review the facts of the Attorney General's proposal in the hope of increasing the effectiveness of the criminal justice system. And I look forward to the testimony of todays distinguished witnesses.

Thank you, Mr. Chairman.

Cochairman BIDEN. Senator Specter.

OPENING STATEMENT OF SENATOR SPECTER

Senator SPECTER. Thank you, Mr. Chairman. I would like to make a few comments at this time because I will not be able to stay for the entire proceeding.

I start with a preference, a strong preference, for the strike forces because they have been successful, but I think it is a matter that has to be very carefully considered in the context that we have it today.

My own experience, having been district attorney of the city of Philadelphia and having seen a strike force in existence working alongside the U.S. attorney's office, showed me a picture of success, especially in the context of a strike force which had continuity over a considerable period of time.

In Philadelphia, an attorney, Joel Friedman, ran the strike force for some 14 years and did a very good job working coordinately with the U.S. attorney. Where you have an Attorney General who is very interested in organized crime, knowledgeable and dedicated to the subject, that is one thing.

As I have said publicly and privately to Attorney General Thornburgh, with his record and his intensity on organized crime, I would feel comfortable having him manage it any way he chose.

But we have had in recent experience Attorneys General who are not very knowledgeable and not particularly interested in organized crime; that is why it has seemed to me that the structure of the strike force has been particularly ineffective.

I believe that the exchanges we have had on this subject have been a good example of an effort on accommodation between the executive and legislative branches. We had an early meeting involving Senator Thurmond, Senator Biden, Senator Kennedy, Senator Nunn, and myself where the Attorney General laid out his program. There have been hearings in the House. I have had a chance to sit down and discuss the matter with Attorney General Thornburgh, and he presents very strong arguments from a management point of view.

I believe that this is a classical situation where it is hard for anybody to tell a prosecuting attorney how to function. With the discretionary role that the prosecuting attorney has, efforts to mandamus or direct a prosecuting attorney are totally unsuccessful.

On the other hand, we have an appropriations bill coming up in which it is technically possible for the Congress to say that no funds may be expended to abandon the strike forces. I don't know if that is a very good way to operate, so I think that an effort in accommodation is very important here.

We all seek the same result. We seek an effective attack on organized crime in this country. One of the things that I was pleased to see in the Attorney General's proposal is an Organized Crime Council, which he proposes to set up to try to provide some institutional direction and to press on organized crime.

One subject that I discussed with the Attorney General was the congressional oversight function and whether it might be structured in a more effective way. The fact is that oversight doesn't do a whole lot of good because everybody is so busy, and oversight hearings are infrequent. When they are held, they don't really get to the core of the issue.

It may be possible to structure some less formalized oversight aside from the so-called seven-camera hearings or C-SPAN, where we would sit down and talk over the issues and try to get more specifics, and reach a really clear understanding of precisely what is going on.

One subject which is tangential, but I think very important is the possibility of a modification of rule 6(e) on grand jury secrecy on congressional oversight. On a number of matters where this Senator has been interested in oversight and inquiries have been made, the oversight committee has functioned, but it has been impossible to really get to the core of the issue because representatives of the Justice Department feel that they cannot discuss the matters under the constraint of grand jury secrecy. There are exceptions for that rule.

My thought—and this ties in very closely to what we are considering today, and I had discussed this with the chairman of the committee—is that it might be possible to legislate on the subject and provide an exception to grand jury secrecy, with the chairman and the ranking member or their specific senatorial designee, having access to grand jury testimony so that there can be some meaningful oversight by the Senate.

The ranking member, the chairman and vice chairman of the Intelligence Committee have access to matters which are at least as secret as grand jury proceedings and they work well. And in a climate and a geography where leaks are very common, we have been able to withstand that. And I think that having very limited exceptions on the grand jury secrecy might be a way to accommodate many interests.

So, Mr. Chairman, I appreciate the opportunity to make that perhaps overly extended opening statement, but I do so because I will not be able to be present the entire time here today. But I would like to see some way to work out an accommodation to reach all of the interests. I don't think that the Congress ought to be at war with the Attorney General on how the battle against organized crime is going to prevail. If that happens, organized crime is going to win.

Thank you.

Cochairman BIDEN. Thank you very much.

Chairman Nunn.

OPENING STATEMENT OF COCHAIRMAN NUNN

Cochairman NUNN. Mr. Chairman, I will just put all of my statement in the record and take about 30 seconds here. Although I approach this hearing with a reasonably open mind, and I will try to keep it open, I must say that this litany of success that we have had in terms of the operation of the strike forces, particularly in the last few years, causes me to wonder why the Attorney General wants to change what his own Department a little over a year ago told us was a very successful program. We had no dissent from that testimony from both the Attorney General's office and the FBI.

In Georgia, we have an old commonsense phrase that says if it ain't broke, don't fix it. I have chaired more than enough committee hearings in the time I have been in the Senate where a program was definitely broke and no one in the executive branch wanted to fix it or even would admit that there was anything wrong with it. That is usually the course.

This is the first time that I can remember where Government officials seem determined to reform a program that everyone agrees has been a tremendous success. So, that is the beginning point that I have, and I will have questions as we go along.

I might say, Mr. Chairman, that I have had enough experience presiding at hearings to know that we are going to have one heck of a time this morning getting through with the panels we have. I hope everyone will keep that in mind. We have got 14 witnesses and I haven't found anybody that doesn't have a plane to catch by 1 o'clock. [Laughter.]

So if we don't start off with that in mind, we are going to have a hard time getting to the last witnesses, and the last witnesses, I think, are very, very important. So I would hope all members would understand where we are on that, and also that the witnesses would be willing to summarize so we will have time for questions, because all of them are very important.

Thank you, Mr. Chairman.

[The prepared statement of Senator Nunn follows:]

STATEMENT
OF
SENATOR SAM NUNN

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SEPTEMBER 8, 1989

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STATUS OF THE DEPARTMENT OF JUSTICE ORGANIZED CRIME STRIKE FORCES PROGRAM

Today we begin hearings on an issue of vital importance, namely the future direction of our Government's organized crime program. Our country is now being ravaged by organized criminal elements that are perhaps more powerful and more insidious than ever before. Whether called Colombian cartels, Jamaican posses, Crips, Bloods, Tongs or Mafia, these merchants of death are well-financed, highly-structured and violent criminal syndicates that threaten American society as we now know it.

Drug trafficking and the violence that accompanies it continues to touch nearly every corner of this country. A Gallup Poll released August 15th revealed that more Americans than ever before believe drugs are the nation's worst problem. This group is larger than the combined total of those who consider the economy, the budget deficit, poverty or homelessness as the country's most pressing concern. More than 75% of Americans want stricter laws against drug users. More than 90% want stricter laws against drug sellers. And, nearly half of all American adults said that drug abuse is "at least somewhat widespread" in their neighbors.

Twenty-three years ago in 1966, our country was confronted with a crisis of similar proportions. The problem facing the American people at that time was -- as former Attorney General Robert Kennedy called it -- "the Enemy Within". It was the almost uninterrupted growth of organized crime since the 1920's and the Prohibition era. The La Cosa Nostra had come not only to dominate most major criminal activities in our nation but, like the drug cartels of today, were also threatening the very fabric of our Society.

The tentacles of the mob stretched from shore to shore. From the mob-controlled unions of Hollywood to the heroin traffickers of New York, organized crime groups were operating with impunity. Communities such as Cicero, Illinois, Reading Pennsylvania, Youngstown, Ohio, Newport and Covington, Kentucky, were nearly captive cities of organized crime and their corrupt political confederates.

Entire industries were dominated if not openly controlled by organized crime. Trucking, garbage hauling, the waterfront, the garment trade, to name a few, were widely regarded to be under the thumb of criminal elements of the mob and corrupt unions.

Like today, America of the 1960's was confronted with near epidemic violence as mob wars erupted in most of our major cities, for control of these profitable illegal markets. For example, at that time in New York, the Gallo-Profaci war raged. In Youngstown, Ohio, there were over eighty separate bombings in a mob struggle for control of illegal gambling in the Mahoning valley. During the same period in Kansas City, the Civella crime family was embarking upon a bloody campaign to eliminate all opposition to their criminal leadership.

We were fortunate at that time to have Robert Kennedy as Attorney General. He had been Chief Counsel to the Permanent Subcommittee on Investigations during its extensive investigation on labor-management racketeering as well as the public testimony of Joseph Valachi on the operations and structure of the La Cosa Nostra crime families. Arthur Schlesinger, Jr., Robert Kennedy's official biographer, later wrote that Kennedy's policies as Attorney General were profoundly influenced by his experience on the Permanent Subcommittee on Investigations. Kennedy's firsthand exposure there led him to focus on organized crime and to set into motion important law enforcement innovations that radically changed the government's approach to organized crime.

It is Robert Kennedy's legacy that we are here to review today. In his book, "The Enemy Within", former Attorney General Robert Kennedy highlighted the threat of organized crime and concluded that the racketeers and organized criminal syndicates represented a greater menace to the United States than any foreign power or subversive political group. To defeat this "enemy within", Kennedy called for not only a commitment of greater law enforcement resources but also a series of new and innovative strategies on behalf of the federal government.

One of the innovations that can be traced to his new strategy was the creation of the Organized Crime Strike Force program within the Department of Justice. Although Kennedy was no longer in office when this proposal finally came to fruition, in 1966 President Johnson established the first strike force in Buffalo, New York. Citing the ineffectiveness of conventional law enforcement efforts against organized crime, President Johnson hailed the strike force concept as an innovative and critical part of the overall government strategy to combat the growth of organized crime in America.

This initial strike force was quickly followed by new strike force offices in Detroit, Philadelphia, Chicago, and Brooklyn. After the Nixon Administration came into office, Attorney General Mitchell ordered the establishment of Strike Forces in Boston, New York, Cleveland, Los Angeles, St. Louis, New Orleans, Pittsburgh, Baltimore, San Francisco and Kansas City.

The theory behind the strike force program was to combine a small group of highly trained, career prosecutors and federal investigators from several agencies to devote their full-time efforts against organized crime. The team would jointly identify the membership and structure of the local organized crime family and then target those individuals whose removal would most severely damage criminal operations. Freed from the overwhelming caseloads and prosecutorial demands inherent in U.S. Attorney offices, these expert prosecutors would be better-equipped to handle the lengthy and resource-intensive investigations that successful organized crime prosecutions so often require.

On June 19th of this year Attorney General Thornburgh announced his decision to end the Strike Force program as we know it by merging the 24 Strike Force offices and 120 trial attorneys with the over 3,000 Assistant United States Attorneys working out of the 94 U.S. Attorneys Offices. That decision surprised many who have followed the Strike Force program over the years for the simple reason that, by all accounts, the Strike Force program had been hailed by most observers, including the Justice Department, as an extremely successful one.

Just last year, in hearings I chaired before the Permanent Subcommittee on Investigations, representatives of the Department of Justice, the Federal Bureau of Investigations, the Pennsylvania Crime Commission, the New Jersey State Commission of Investigations, the New York Organized Crime Task Force and the General Accounting Office, praised the overwhelming successes of the Justice Department's organized crime program.

The Acting Assistant Attorney General for the Criminal Division, John Keeney, who testified on behalf of the Department of Justice, called the Department of Justice's record against organized crime a tremendous success. He also noted that "the cornerstone of the Department's organized crime program is the Organized Crime and Racketeering Section of the Criminal Division".

> Mr. Keeney went on to add that:
> "the mission of the Strike Forces is to disrupt organized criminal enterprises by imprisoning their leadership and forfeiting their assets. Using the most sophisticated and intrusive investigative techniques, including electronic surveillance, undercover operations and aggressive use of the federal immunity statute, they are dedicated to building comprehensive RICO cases against entire crime families. As the following survey of cities demonstrates, they have met with great success."

I must add that a review of the recent successes of the Strike Force program are quite impressive. Although I will submit the entire list into the record at this time, I think it would be useful to highlight a few of the recent Strike Force successes that Mr. Keeney discussed before the Subcommittee last April.

- Boston, the Strike Force convicted Gennaro Angiulo, head of the Boston branch of the Patriarca LCN family in 1986 and Ilario Zannino, the Consigliere, in 1987.

- Buffalo, the Strike Force convicted Samuel Rosotti, the LCN boss, his underboss, consigliere, and several capos and associates in 1984.

- Chicago and Kansas City, the Strike Force convicted Joseph Aiuppa, the boss of the Chicago LCN and three top associates in 1986. Also convicted were Carl DeLuna, acting boss of Kansas City, Frank Balistrieri, boss of Milwaukee and Milton Rockman, the financial consultant to the Cleveland family and new Meyer Lansky to the mob.

- Cleveland, the Strike Force convicted James Licavoli, the boss of the Cleveland LCN and his entire hierarchy in 1982. In 1983, the Strike Force convicted the only remaining high-ranking official of the Cleveland mob, Angelo Lonardo, the Underboss.

- Los Angeles, the Strike Force convicted Dominick Brooklier, the LCN bosss, his underboss and two associates in 1981.

- New Orleans, the Strike Force convicted Carlos Marcello, the boss of the local family in 1981.

- Philadelphia, the Strike Force convicted Nicky Scarfo, the boss of the LCN family and other leaders of the mob just this year.

Although I approach this hearing with an open mind, I must say that this litany of success causes me to wonder why the Attorney General wants to change what his own Department little more than a year ago told us was such a successful program. I could better understand the Attorney General's position if Mr. Keeney and FBI Director Sessions had told us in April 1988 that there were significant problems with the Department's organized crime program. But, they didn't. Rather, they gave it high marks and claimed that the hallmark of that success was the Strike Force program with its 24 independent field offices across the country.

In Georgia, we have always followed the old common sense phrase that "if it ain't broke, don't fix it". I have chaired more than enough committee hearings where a program was definitely broken and no one in the Executive branch would admit it, nevertheless attempt to fix it. This is the first instance I recall where, to the contrary, government officials seem determined to reform a program that everyone agrees has been a tremendous success.

In that context, the Attorney General's proposal has generated some serious questions which I believe ought to be addressed before we begin dismantling what has to date proved to be an effective program against organized crime:

- if the proposed merger takes place, where will we be five years from now in the federal battle against organized crime? Will we still have, as we have had under the Strike Force program, a dedicated, highly trained, and professional cadre of prosecutors to maintain a sustained attack on organized crime?

- What assurance can the Attorney General give us that he will be able to maintain the independence and commitment of resources of the strike force units he proposes to create within U.S. Attorneys offices? One of today's witnesses, Kurt Muellenberg, is a former chief of both the Narcotics Section and the Organized Crime Section of the Justice Department. I believe Mr. Muellenburg will describe for us the past inability of the Justice Department, including his then supervisor, Mr. Thornburgh, to prevent U.S. Attorneys from diverting to other projects special narcotics units prosecutors. Will history repeat itself? If some future Attorney General does not share Mr. Thornburgh's commitment on this issue, will the Strike Force units remain devoted full-time to organized crime prosecutions?

- Why should we risk years of success in the fight against organized crime to adopt this proposal? We have devoted considerable resources to develop teams of career Strike Force prosecutors who have acquired an institutional memory as well as considerable expertise in attacking organized crime. What will we gain in return for risking the loss of these types of highly trained and highly committed individuals?

- Rather than eliminate turf-battles as the Attorney General has suggested, will this proposal instead fuel and increase jurisdictional battles between U.S. Attorneys? In a January 20, 1988 order, Attorney General Meese substantially increased the authority of the U.S. Attorneys over Strike Force activities. Representatives from both the Justice Department and the F.B.I. testified last year that the order was designed to improve coordination between U.S. Attorneys and Strike Forces. If that is indeed the case, will this new proposal only resurrect the infighting problem, by creating new battles between competing U.S. Attorneys?

- If last year's testimony was accurate and the Meese order was effective, what is the justification for this new proposal? Will the proposed merger risk the destruction of the Strike Force successes by addressing a jurisdictional problem that no longer exists?

- What will the new proposal accomplish that is not already covered by the Meese order? Some have suggested that the only substantive difference is that under the Thornburgh proposal we will risk the loss of the independence of the Strike Force and its attorneys.

- Finally, do we want to return to the days when our organized crime program was controlled by politically-appointed United States Attorneys, whose tenure may, in many cases, be extremely short? Whether Democrat or Republican, do we want these sensitive cases controlled at the local, operative level, by political appointees or by career prosecutors?

In closing, I note again that in the early 1960's, our country was faced with the very real threat of organized crime in the guise of the La Cosa Nostra crime families. At that time, our Government responded with, among other things, the organized crime strike force program. As the Department of Justice testified in April 1988, we have, bolstered by the strength of that program, made significant progress in our battle against organized crime.

Today, we face perhaps an even greater threat from organized crime since it involves drug trafficking groups whose proclivity towards violence puts even Al Capone to shame. Now, more than ever, shouldn't we be increasing, not decreasing, the strike force program? Rather than disband a program that has worked so well in one area, should we instead consider expanding that program to add the weight of its experience to the fight against the drug trade? These are the types of questions that I hope we will be able to address this morning.

Acting Assistant Attorney General Keeney testified last April: "We simply cannot slip into complacency because we have won significant victories. Only by sustaining our effort will we continue to reduce the threat from organized crime. It has been said that eternal vigilance is the price of liberty. Eternal vigilance is also the price we must pay for a society free from the parasite of organized crime". I would add, that we in Congress must also be vigilant to ensure that good but erroneous intentions do not set us back in protecting our society from the spector of organized crime.

In conclusion, I want to thank Chairman Biden and Chairman Glenn for their foresight in holding these joint hearings. I also want to thank Senators Kennedy, Thurmond and Roth for their work and the work of their staff in gathering together for today's hearing some of our country's most important experts on the issue of organized crime. Due to time constraints, unfortunately, not all of these experts will be able to testify. Nevertheless, many of them have submitted rather thoughtful analyses of the issue and I ask at this time that we include their statements for the record.

Cochairman **Biden**. Mr. Chairman, when the ultimate chairman to my left here, Senator Thurmond, when he chaired this committee, he had a very simple rule. He said limit everybody to 5 minutes, period.

Senator **Thurmond**. Except the Attorney General.

Cochairman **Biden**. Except the Attorney General. [Laughter.]

If my colleagues don't mind, can we begin, or do others have opening statements? Senator Lieberman, do you have a brief opening statement?

OPENING STATEMENT OF SENATOR LIEBERMAN

Senator **Lieberman**. Having heard the various admonitions, I will be very brief. Adopting Chairman Nunn's words, I have a reasonably open mind, but I approach this issue with a tilt which, I suppose, is based on my previous incarnation as Attorney General of the State of Connecticut. In that position, it seemed very important to me to coordinate all law enforcement efforts under a central administrative authority, to ensure the most effective use of the prosecutorial resources available.

And so I begin with a tilt in favor of the Attorney General's proposal. But clearly there is a burden on him and others who advocate it to convince us that the outstanding work of the Organized Crime Strike Forces will not be diminished by the plan for centralized coordination, not only under his leadership, but under the leadership of those Attorneys General who follow him.

I look forward to the hearing, and I thank you, Mr. Chairman.

Cochairman **Biden**. Senator Simon.

OPENING STATEMENT OF SENATOR SIMON

Senator **Simon**. I shall be very brief, Mr. Chairman. I am one of the few people who hasn't made up his mind. I was inclined in opposition, frankly, because of the Chicago Crime Commission opposition.

Tony Valukas, your very effective U.S. attorney for the Chicago area talked to me and somewhat tilted me in the other direction. So I am waiting to hear what the witnesses say.

Cochairman **Biden**. I hope it wasn't under a threat of indictment or anything like that. [Laughter.]

Senator **Simon**. Let me just add one other point. By the time it gets down to questioning and me here, many of the questions will have been asked. I do want to direct a question or two to the Attorney General on the refugee situation, where there is appreciable confusion. I know it is not the subject of the hearing here today, but I do think it needs to be clarified.

Thank you, Mr. Chairman.

Cochairman **Biden**. Thank you very much.

With all the talk and direction and discussion about the Attorney General, who is obviously the central figure in this hearing, I understand, with his permission and the agreement of both committees, that our first witness will be an equally distinguished Cabinet member, the Secretary of Transportation.

Please, Secretary Skinner, would you come to the witness table? By way of brief explanation, Secretary Skinner not only is a distinguished Cabinet member, but is here, as a U.S. attorney, and as a member of the President's——

Secretary **Skinner**. President's Commission on Organized Crime.

Cochairman **Biden** [continuing]. Commission on Organized Crime. We welcome your presence here and look forward to your statement.

STATEMENT OF HON. SAMUEL K. SKINNER, SECRETARY, U.S. DEPARTMENT OF TRANSPORTATION

Secretary **Skinner**. Thank you very much, Senator Biden, Senator Nunn, members of the committee. I would ask that my prepared remarks be made part of the record and I will try to adhere to Senator Thurmond's longstanding suggestion of 5 minutes.

I suppose one could question why the Secretary of Transportation would be at a hearing of these committees, but as some of you know, since 1968 in one way or another, I have been involved. As an assistant U.S. attorney appointed by Ramsey Clark, on the suggestion of Warren Christopher, serving as first assistant U.S. attorney on the nomination of President Ford, as a private defense counsel representing people before both U.S. attorneys and strike forces and, of course, as vice chairman of the President's Commission on Organized Crime, I have been involved deeply in the fight against organized crime for some 20 years.

I suppose someone could question why someone weighs in in a hearing like this when his plate is full at the Department of Transportation, but it is because I feel strongly about the cause that we are talking about that we all share, and that is the fight against organized crime.

Let me make some observations. As the first career prosecutor in the Northern District of Illinois ever to be appointed U.S. attorney, as someone who had a good working relationship with the strike force in Chicago, we worked together on many matters and were very successful. And some of the people you will be hearing from today were part of my team in Chicago.

As someone who recognizes the importance that the strike force has played—and if there is one person that can be responsible, as Senator Kennedy knows, it is his brother, Robert, who set up the first field office on organized crime that happened to be in Chicago, and I worked on the Hoffa appeals as a result of that outstanding effort by Senator Kennedy's brother, one of our Nation's truly outstanding Attorneys General.

But times have changed, and as times change it is important that we change if we are going to stay ahead, as we say, in flying of the power curve. First of all, I have looked carefully at the Attorney General's proposal, and it is not a dismantling.

Anyone who uses the word "dismantling" of the strike forces does this proposal injustice. It is a reorganization of the reporting structure. The units remain the same. The sufficiency of the personnel remains the same. The same people remain in place. The reporting structure reports through the U.S. attorney to the Attorney General.

It is a management decision and, frankly, it is necessary. If we are going to coordinate the fight against organized crime in this country, it is a different fight than in the days of Robert Kennedy and Sam Skinner in 1967 and 1968. It deals with problems that are much different.

We still have the problems of official corruption, we still have the problems of gambling, we still have the problems of vice, but we also have sufficient and significant financial crimes, drug crimes, and many others. That requires coordination.

It requires different skills than the people that were involved in the early 1960's. It requires skills of people such as those that are in U.S. attorneys' offices throughout the country.

Finally, the U.S. attorneys offices are significantly different than in the days when I first started in the office. I was one of 18 assistants when there was a change in administration and President Nixon replaced President Johnson.

I quickly became the third ranking assistant in the office with less than 2 years' experience. Today, you find that there are career assistant U.S. attorneys, just as there are career strike force attorneys. The average stay in many of the offices is 6, 7 years, or even longer, and, in fact, people are making these jobs careers.

U.S. attorneys are of the highest quality ever, in my opinion, in the history of this country because, thanks to the Senators on this panel and others, the selection process and the merit selection panels imposed for U.S. attorneys by the Senate have been imposed. And, of course, the organized crime involvement in problems such as drugs and financial crimes is changing.

You have experienced trial lawyers in U.S. attorneys offices today that you didn't have 10, 15, 20 years ago. You have experienced investigative lawyers, and there is no reason that those experienced men and women shouldn't be involved in the fight against organized crime and the way that is going to happen is if it is one coordinated effort under a U.S. attorney under the structure suggested by Attorney General Thornburgh.

Finally, we talk about turf fights. One of the nicest things that has been said about me since I have been in Washington is what Bill Bennett, the drug czar, said yesterday at the Press Club when he said, am I getting coordination from the other members of the Cabinet, and he referred to me and said Sam Skinner came to me the first day and said, Bill, you have got a job, what can I do at Transportation to help you do that job; you have got a blank check to help you fight this.

We have given someone the responsibility to fight organized crime; that is, the Attorney General of the United States. We need to give him the tools. We need to eliminate the problem of turf fights in jurisdictions. We still need to maintain the credibility of the strike forces, which we do by maintaining their name and maintaining their personnel under a different reporting structure.

And, finally, someone referred to heat. I suggest, if we eliminate turf fights, if we use the best talent possible that we can get, we will not take the heat off of organized crime; we will increase the heat that is on organized crime. This has been a longstanding discussion point and it is time to put it behind us and move forward as one on a coordinated basis so that we fight organized crime, whether it be in gambling, in drugs, prostitution, or in the new areas such as financial crimes and things like that.

And I think if we are asking someone as distinguished as the Attorney General to fight organized crime, we should give him the same flexibility that we have given Attorneys General in the past, and that is to organize his effort to make sure that he has all of the resources available to him on a quick, available basis without jurisdictional fights to fight that battle.

That is the reason you can tell I feel strongly about it. It is not something that I would not venture into, this area, if I hadn't spent some 20 years around this problem, watching, learning, respecting, and developing opinions.

I would entertain any questions, and I don't think I exceeded, Senator Thurmond, my 5 minutes.

[The prepared statement of Secretary Skinner follows:]

TESTIMONY OF SAMUEL K. SKINNER, SECRETARY OF TRANSPORTATION BEFORE THE SENATE COMMITTEES ON THE JUDICIARY AND GOVERNMENTAL AFFAIRS

SEPTEMBER 8, 1989

Thank you for the opportunity to provide testimony today in support of Attorney General Thornburgh's proposal to consolidate Organized Crime Strike Forces with United States Attorneys' offices. Some of you may be surprised to see me testifying before these committees on a matter quite unrelated to our nation's transportation system. As many of you know, however, for a number of years before I had the privilege of serving President Bush as Secretary of Transportation, I served as a federal prosecutor in the Northern District of Illinois, first as an Assistant U.S. Attorney, then as First Assistant to the U.S. Attorney, and finally as U.S. Attorney. During my tenure as U.S. Attorney I also had the opportunity to serve on the Justice Department's White Collar Crime Committee and the Attorney General's Advisory Committee, both of which dealt with aspects of organized crime in this country. More recently, at President Reagan's request I served as the Vice-Chairman of the President's Commission on Organized Crime. Even in private practice at the law firm of Sidley & Austin in Chicago I sometimes came into contact with both the the U.S. Attorney's office and the Organized Crime Strike Force. In short, since the late 1960s I have been personally involved in the federal government's effort to eradicate organized crime in this country, and I have remained committed to that effort even as my interests and responsibilities have broadened.

Based on my experience as a prosecutor, and my subsequent work on the President's Organized Crime Commission, I can without reservation support the Attorney General's proposal to consolidate the Organized Crime Strike Forces with U.S. Attorneys' offices. I believe that the Attorney General's proposal represents an important and eminently sensible management change that will yield several great benefits in the battle against organized crime. First, the consolidation will enable the Justice Department to identify priorities, engage in strategic planning, and employ the troops engaged in the war on organized crime in a more efficient and coordinated manner. I have long been an advocate of strategic planning in business and government; as many of you are aware, my own department is currently in the process of developing a comprehensive, long-range strategic plan for our nation's transportation system. The Attorney General's proposal contains two innovations that aim to bring the same strategic approach to the federal government's assault on organized crime. The first is the creation of an Organized Crime Council, which will formulate a national strategic program for the eradication of organized crime and monitor the offices' execution of the strategic program. Just as important will be the Council's personnel oversight role. U.S. Attorneys will be required to submit all proposed personnel changes regarding Strike Force members to the Justice Department for approval, and the Council will thus be in a position to ensure that U.S. Attorneys do not inadvertently weaken the effort against organized crime one prosecutor at a time. The second innovation is the creation of what the Attorney General calls a "strategic reserve" of veteran organized crime prosecutors and staff in the Organized Crime and Racketeering Section of the Justice Department. Under the Attorney General's plan, a number of experienced organized crime prosecutors will be reassigned from field offices to the strategic reserve in Washington. The attorneys employed in the strategic reserve will form, in essence, a Rapid Deployment Force in the war against organized crime, assisting investigations and trying cases wherever in the country they are needed. The strategic reserve will, therefore, enable the Organized Crime Council to execute its national strategic plan with a minimum of disruption in the field, and to act quickly to counter new organized crime threats wherever they might emerge. Currently the Organized Crime and Racketeering Section simply cannot quickly redeploy Strike Force members from areas where they are underutilized to areas where they may more profitably be employed. Inevitably this state of affairs has led to inefficient use of scarce crime-fighting resources.

A second major benefit of the Attorney General's plan will be the elimination of turf battles between rival prosecutorial units in the same geographical area. Happily, during my time as U.S. Attorney in Chicago, I had a very good relationship with the head of the local Strike Force, and we were able to avoid the jurisdictional disputes that have plagued some other localities. However, given the nature of organized crime and the realities of law enforcement, the existing system of independent Strike Forces has inevitably engendered turf battles between Strike Forces and U.S. Attorneys, for a number of reasons. Perhaps most importantly, "organized crime" is not a concept that can be easily defined or immediately identified in the field. The U.S. Code nowhere defines the term, and criminal outfits do not readily fall into neat categories. For instance, it is sometimes difficult to determine whether corruption at a labor union is related to organized crime, or whether the activities of youth gangs should be categorized as organized crime. Moreover, each year there emerge new types of criminal organizations -- such as the Asian gangs of the West Coast or the Jamaican "posses" of the East Coast -- thus creating new definitional problems and new jurisdictional tensions. In short, in many cases it is quite difficult to say whether a particular criminal organization is in fact a manifestation of "organized crime," and in numerous other cases it is equally difficult at the outset of an investigation to determine whether it may, sometime in the future, involve "organized crime." Add to these difficulties the stark reality that major organized crime prosecutions are among the most exciting and newsworthy types of cases, and it is hardly surprising that U.S. Attorneys and the heads of Organized Crime Strike Forces have often found themselves enmeshed in costly and pointless jurisdictional disputes. Such disputes result in duplication of effort, raise tensions among those who should be engaged in a common effort, consume precious prosecutorial resources, and do nothing to put racketeers behind bars.

A third, related, plus is that for the first time in a generation United States Attorneys will be responsible for all the organized crime investigations and prosecutions in their respective areas. Each U.S. Attorney will be accountable to the Organized Crime and Racketeering Section, the Organized Crime Council, the Attorney General, and ultimately the public for the state of the effort against organized crime in his or her district. After the consolidation a U.S. Attorney will have at his or her disposal all the resources of his or her own office plus all the resources of the Organized Crime Strike Force, and will be able to direct the overall federal law enforcement program in his or her district. With those added resources will come sole responsibility for results against organized crime in the district. No longer will it be open to a U.S. Attorney to argue that flourishing gangsterism is within the exclusive jurisdiction of the Strike Force and hence beyond his or her control. I have always been a strong believer in giving responsibility to good people and holding them accountable for their results. The Attorney General's proposal does just that.

Placing ultimate responsibility for organized crime in the hands of U.S. Attorneys has another plus: unlike the heads of Organized Crime Strike Forces, who are traditionally career prosecutors, U.S. Attorneys tend to serve in their posts for no more than five to ten years. U.S. Attorneys' shorter tenures inevitably require them to emphasize decision over irresolution, and speed over delay. For better or worse, Strike Forces' long-term time frame has sometimes led to extreme caution and even paralysis in bringing major organized crime prosecutions. Over the years I have been involved in numerous investigations in which Assistant U.S. Attorneys were much more aggressive and interested in concrete results than their Strike Force counterparts. On the other hand, I have witnessed and even supervised numerous cases in which Assistant U.S. Attorneys successfully prosecuted organized crime defendants without the aid of the local Strike Force. Therefore, the Attorney General's consolidation proposal places responsibility for organized crime on those who have an institutional incentive to act quickly and forcefully, and the ability to get the job done.

Finally, the proposal allows U.S. Attorneys to make use of their personal relationships with local district attorneys and local law enforcement officials, their influence with local political officials, and their visibility in the local community. Some critics of the Attorney General's proposal have contended that, because U.S. Attorneys are appointed by the President and often have strong connections to local officials, they should not be given control over the battle against organized crime. I think that just the opposite is true. My experience as a prosecutor has convinced me that a U.S. Attorney's relationships with local officials are invaluable assets, not opportunities for cronyism. Federal prosecutors must cultivate and maintain close working relationships with local police and prosecutors, and must sometimes obtain cooperation from local political figures. Although it may have been true in the 1960s -- when Attorneys General Robert Kennedy and Ramsey Clark set up the first Organized Crime Strike Forces -- that U.S. Attorneys were insufficiently independent or competent to handle organized crime prosecutions, that is certainly not the case today. Because of factors such as the increasing use of merit-based selection procedures for U.S. Attorneys, the increasing visibility of U.S. Attorneys both locally and nationally, and increases in resources, the quality of U.S. Attorneys and lawyers who serve under them has steadily increased over the last twenty years or so and has never been higher than it is today. Whether or not they were in the past, U.S. Attorneys' offices are today very well-equipped to handle organized crime investigations and prosecutions.

In conclusion, I would like to thank you for your interest in the Attorney General's proposed consolidation. I have believed since my days as a federal prosecutor that removing the scourge of organized crime from our society is one of the federal government's most urgent priorities. The war against organized crime should not be and -- as these committees so aptly demonstrate -- is not a partisan effort. Reasonable men may differ on means, but they do not differ on ends. For the reasons I have expressed today, I believe that Attorney General Thornburgh's proposal will be an important contribution toward reaching those ends.

Cochairman BIDEN. We would like to thank you, Mr. Secretary. We know how busy you are. We appreciate your interest and sincerity and your expertise in this area, and we thank you very, very much for taking the time to share in a very concise and articulate manner your strongly held view. Thank you very much.

Secretary SKINNER. Thank you very much.

Senator THURMOND. Thank you very much, Mr. Secretary.

Secretary SKINNER. Thank you very much.

Cochairman NUNN. Thank you, sir.

I believe next we have the Attorney General. Mr. Attorney General, we are delighted to have you this morning and we will be pleased to have your testimony and then I am sure we will all have some questions for you.

STATEMENT OF HON. RICHARD L. THORNBURGH, ATTORNEY GENERAL, U.S. DEPARTMENT OF JUSTICE

Attorney General THORNBURGH. Good morning, Senator, Mr. Chairman, members of the committees. I must speak more softly than my colleague, Sam Skinner; they have to adjust the sound system here.

I am pleased to testify today with regard to the Department of Justice plan to merge the present separate field offices of the Organized Crime and Racketeering Section of our Criminal Division into the U.S. attorneys' offices.

At the outset, let me point out that those who characterize this plan as one to abolish these offices, known popularly as strike forces, are mistaken. Our merger plan is, in fact, designed to strengthen the fight against organized crime through more efficient coordination and by making more resources available to the effort, by reducing confusion and overlapping jurisdiction, and providing overall management through a newly established Organized Crime Council in Washington.

What we are talking about to a large extent is a change that is more bureaucratic and managerial than substantive. To the public and to prospective targets of our organized crime fight, the day following the consolidation will be very little different from the day preceding it. Over time, however, I believe this consolidation can lead to more prosecutions, more convictions, and to a more effective enforcement program.

First, a little history. Like my colleague, Sam Skinner, I have personally devoted a major portion of the past 20 years to the fight against organized crime. As the U.S. attorney in Pittsburgh from 1969 to 1975, I worked closely with the strike force office in western Pennsylvania, an office which was established at my request in order to obtain the necessary personnel to step up our investigative and prosecutive capabilities.

We empaneled the very first special grand jury in the Nation to investigate organized crime under the Organized Crime Control Act of 1970, and mounted an unprecedented attack on mob activities, including gambling, narcotics, extortion, labor racketeering, and public corruption, in western Pennsylvania, utilizing new tools such as court-authorized wiretapping and witness immunity statutes. And I personally prosecuted a number of cases against major racket figures and public officials whom they had corrupted.

By appointment of then Attorney General Elliot Richardson, I also chaired a committee of U.S. attorneys appointed in 1973 to examine relationships between our offices and the strike force offices across the Nation. Thereafter, I served as Assistant Attorney General in charge of the Criminal Division during the tenure of Attorney General Edward Levi, under whose direction in 1975 I commenced an office-by-office review of strike force operations under my jurisdiction in response to continuing concerns expressed by U.S. attorneys—a review, again, designed to strengthen our overall antiorganized crime effort.

While Governor of Pennsylvania from 1979 to 1987, I created the very first organized crime unit without our State police, supported legislation creating court-authorized wiretapping and witness immunity laws in our State, empaneled the first statewide grand jury to investigate organized crime activities, and, in cooperation with the State attorney general, our crime commission, and Federal authorities, undertook efforts to contain the influence of organized crime as a high priority for our State. That high priority for the Nation continues to this day in my service as Attorney General.

Today, however, we find ourselves in an era when the traditional elements of organized crime are changing their tactics and new criminal organizations and techniques are emerging. This, we feel, requires new approaches and a new configuration in our efforts.

Proposals such as the one before you are not new. The Organized Crime Strike Force Program, initiated in 1967 by Attorney General Ramsey Clark, has evolved into 14 permanent field offices employing approximately 130 attorneys.

As early as 1970, the merger of the strike forces into the U.S. attorneys' offices was recommended by the Presidential Council on Executive Organization, the so-called Ash Council. That recommendation was next repeated by the Attorney General's Advisory Committee of U.S. Attorneys in 1974, which recommendations were implemented in part during my tenure as an Assistant Attorney General.

Again, in February 1987, the Attorney General's Advisory Committee submitted a formal recommendation to consolidate the strike forces to Attorney General Meese. That report urged that the consolidation take place largely in order to permit the U.S. attorney in each district to direct all the law enforcement efforts in his or her district.

The 1987 report noted that consolidation had already occurred in several districts, most notably in the Southern District of New York encompassing Manhattan and Westchester County, where the results have been extraordinary, compiling a record of racket busting under four successive U.S. attorneys unmatched anywhere in the country.

More recently, in April of this year, the General Accounting Office issued a report which stopped short of recommending merger, but did identify several continuing impediments to efficient law enforcement that the consolidation is designed to eliminate.

Specifically, the consolidation will end prosecutor shopping by investigative agencies and will eliminate the turf battles that have been noted in the present system. Further, the consolidation of the offices would centralize the accountability for prosecuting crime in a district and would encourage U.S. attorneys to dedicate their resources strategically to combat organized crime.

I would like to mention one other development which has occurred since the initiation of the strike force program in 1967. During this interval, the overall quality, quantity, and independence of the U.S. attorneys and their assistants has measurably increased.

While I personally believe that the U.S. attorneys offices in 1967 were up to the task of combating organized crime with appropriate support from Washington, what I believed then is now undeniably true. U.S. attorneys and their greatly enlarged staffs are now recognized as dedicated professionals widely respected within their districts.

One hears from time to time doubts about whether U.S. attorneys are capable of the sustained effort in the complicated case, cases that often extend over the tenure of more than one U.S. attorney. Let me give you three examples which put the lie to that assertion.

One is the work done in the Southern District of New York under four separate U.S. attorneys to dismantle the commission of organized crime families in the Greater New York area; the second, Operation Greylord in Chicago, an investigation of corrupt judges that extended over the tenure of three U.S. attorneys—Tom Sullivan, Dan Webb, and my colleague, Tony Valukas, who is here with me this morning; and, finally, the conviction this week of one of the major Central American drug traffickers, Juan Mate Ballesteros, by the U.S. attorneys in Los Angeles, a major trafficking organization, the investigation of which began in the early part of this decade and extended over the tenure of three different U.S. attorneys.

Today's U.S. attorneys are the premier law enforcement officials in this country. They have the capability, the determination, the commitment, and, if this plan is implemented, will have the full authority to pursue major organized crime and other criminal enterprises on a comprehensive basis.

The proposed merger would enable the Government to undertake, in short, a truly unified approach in the war against organized crime, unencumbered by artificial jurisdictional boundaries and headed in each district by the Presidentially appointed, Senate-confirmed chief Federal law enforcement officer.

While the consolidation is planned in part to alleviate the problems of the past, equally important, it will also give the Department's organized crime program the flexibility needed to pursue newly emerging organized crime groups and to respond to changes in traditional organized crime elements. It is this look to the future of organized crime that particularly convinces me that the consolidation of the strike forces with the U.S. attorneys offices is a necessary and desirable course.

The emergence of newer criminal groups such as the Colombian drug cartels, Asian organized crime groups, the Jamaican posses, the Los Angeles street gangs and others, poses new threats in certain areas of the country. And while these threats differ little from those of traditional organized crime elements, they are not being addressed on a coordinated national basis.

Strike force offices have been slow to pick up on these emerging groups, and yet these groups deserve the same intensive prosecutive effort that the strike forces have given to traditional organized crime groups in the past.

Today, the prototypical organized crime operation is the business of drug trafficking, and the model for this consolidation proposal before you today is, in fact, the highly productive effort dealing with the drug problem being carried out by the 13 Organized Crime Drug Enforcement Task Forces, each headed by U.S. attorneys, and coordinating the antidrug efforts of numerous Federal agencies, as well as State and local efforts—a program described in President Bush's national drug control strategy this week as, "a model in interagency coordination."

It is significant, I believe, that this model, under the jurisdiction of the U.S. attorneys, has been utilized to attack our No. 1 organized crime problem, drugs, rather than the independent and separate strike force model left over from the 1960's.

In a report done by an independent consultant with respect to the Organized Crime Drug Enforcement Task Force Program, it was assessed as follows:

> The OCDETF program's synchronization of multiple investigations against common target organizations, its effective use of attorneys at the early stages of investigation, its use of financial investigations to reach otherwise invulnerable targets, and its unprecedented success in fostering collaboration among law enforcement agencies from all jurisdictions, has demonstrated the efficacy of OCDETF's operational model. With its solid record of success, OCDETF has become the model for a comprehensive national effort directed at multi-State and multi-national drug enterprises.

This is the model that I suggest to you in the plan that I have submitted should be used against all organized crime operations.

A further benefit to consolidating the strike forces with the U.S. attorneys' offices is that the local influence of the U.S. attorney as chief Federal law enforcement officer can be used to forge more effective alliances with local district attorneys, State attorneys general, and other State local law enforcement agencies combating organized crime. This, I believe, is a major reason for the strong endorsement of the consolidation plan by the National Association of District Attorneys, our partners at the local level in combating crime, and organized crime, in particular.

The plan for consolidation provides also for the creation of an Organized Crime Council, which will receive and coordinate the various plans submitted by the U.S. attorneys in order to formulate and monitor a true national strategy in the war against organized crime.

As chair of this council, I can assure you this oversight function will be active and effective, and we invite, and indeed welcome, sharing that oversight role with members of appropriate committees in the Congress. We are eager to prove this case.

In addition to providing policy guidance and national coordination in the war on organized crime, the council will monitor the programs instituted by each of the strike force units in the U.S. attorneys' offices. Personnel changes within those units will be made by the U.S. attorneys only with the concurrence of the head of the Criminal Division and will be reported to the council, so that any attempted dissipation of strike force resources would become quickly evident to the Department and to the council.

Here in Washington, we will also increase the size of the Organized Crime and Racketeering Section to provide a cadre of experienced prosecutors to try cases wherever necessary. The main purpose of this strategic reserve of attorneys will be to restore the original mobile hit-and-run nature of the strike forces as they were created in the 1960's before they became permanently established as alternate prosecutive units in the districts where they were operating. The availability of these resources will guarantee that cases that should be investigated and prosecuted are investigated and prosecuted anywhere in the country.

The Organized Crime and Racketeering Section will also continue to perform two important present functions: reviewing case initiation reports and prosecution decisions, and providing expert prosecutors to try cases as needed.

The review and approval process is a very workable option. The Criminal Division already exercises such review and approval with respect to several other types of prosecutions. The Organized Crime and Racketeering Section must approve the use of RICO in any criminal case. The Internal Securities Section must approve espionage charges, and the Public Integrity Section must approve Hobbs Act prosecutions.

Because personnel changes in the units will necessarily be reported back to the Organized Crime Council, there will be an institutional check to determine if personnel changes are serving to dissipate experience accrued in strike force offices. It is my belief that the experience level will not diminish in the proposed consolidation.

Since I first raised the possibility of merger last winter, a number of mistaken charges have been made, most notably that the consolidation represents a dissipation of the effort against the traditional elements of organized crime. As I have stated above, I believe the reverse to be true.

Others have said that strike force attorneys, as career prosecutors, serve longer than the average U.S. attorney. The statistics simply do not bear that case out. Good, experienced prosecutors exist in abundance within both groups.

Some critics have even suggested that U.S. attorneys will not be interested in long-term work on complex organized crime cases. As members of this committee well know, this is a wholly unfair and unjustified charge. Each of you, I suspect, know many of our U.S. attorneys personally, and many of you have cooperated in the selection of these Presidentially appointed and Senate confirmed prosecutors—prosecutors who, as I have stated, are proving their ability daily to handle complex securities, tax, fraud and corruption cases, as well as their share of organized crime prosecutions.

Put simply, this proposal to consolidate the strike forces with the U.S. attorneys' offices will enhance rather than diminish our continued strong, high-priority effort against organized crime.

It is time to get on with this fight and not waste further time on continued arguments based on assertions such as those mentioned above. It is time, in my view, to add the 93 U.S. attorneys' offices to a new, coordinated, and revitalized effort against organized crime across this Nation.

Thank you for your time and attention. I would be pleased, Mr. Chairman, to try to answer questions posed by members of these committees.

Cochairman NUNN. Mr. Chairman, given the number of Senators we have interested this morning and the time and the witnesses, I would suggest that we have a 5-minute rule and let the clerk notify each of us when 5 minutes has expired.

Cochairman BIDEN. We have our little light right here. We will put it right up there.

Cochairman NUNN. Thank you.

I have a couple of questions here, Mr. Attorney General, leading off. Mr. Methvin, who will be testifying later, says on page 5 of his testimony, and I quote him, and then I will ask you the question that he asks:

> What makes Attorney General Thornburgh believe he can get U.S. Attorneys whom he cannot fire to give sustained priority to the war on organized crime?

He goes on to say:

> The April 1989 General Accounting Office Study done for the Permanent Subcommittee on Investigations notes that in January 1988, the Attorney General, then Ed Meese, ordered U.S. attorneys in strike force headquarters cities to file plans for combating organized crime within 90 days. Yet, 1 year later, last January, the General Accounting Office found that fewer than half the subject U.S. attorneys had done so. When the Attorney General gives the U.S. attorneys an order to develop a plan to attack organized crime in 90 days and more than half of them do not do it within a year, how do we consider turning the whole job over to them.

What makes you believe that we will get a response, on top?

Attorney General THORNBURGH. As a former U.S. attorney myself, and having looked at this from both ends of the spectrum, my sense is that the U.S. attorneys are eager and willing and able to assume the roles that we have assigned to them under this consolidation plan.

My suspicion is that the inability to submit the plans requested by Attorney General Meese was bottomed on the very fragmented nature of the operation as it exists at the present time.

It is necessary for the U.S. attorney to have full control of the operation in order to be able to submit the kind of plans that would be required under the new Organized Crime Council that we have proposed in this consolidation plan, and I believe that would be forthcoming. And I can assure this committee that it would be forthcoming and would invite strong oversight of that undertaking.

Cochairman NUNN. What happens if a U.S. attorney, Mr. Attorney General, refuses to dedicate the resources needed to organized crime cases? Can you personally order that, and do you intend to?

Attorney General THORNBURGH. Yes.

Cochairman NUNN. What is your authority over U.S. Attorneys?

Attorney General THORNBURGH. It will be the authority encompassed in the plan as I have submitted to these committees; that is to say that the level of resources devoted to organized crime through the new Strike Force units will be at least maintained.

But, in fact, Senator, because of the consolidation of the offices and the availability of the entire resources of the U.S. attorneys' office, my expectation is that more resources, where appropriate and needed, would be forthcoming from not only the units themselves, but from the general pool of the U.S. attorneys' offices as appropriate.

Cochairman NUNN. What happens if they don't respond? What is your recourse, then?

Attorney General THORNBURGH. The same as it is in any other area where we deal with major priority problems such as the savings and loan fraud investigation, the HUD investigation, the major drug investigations. We are a team in the Department of Justice. I believe I have the confidence of the U.S. attorneys, and I believe that we are dedicated to the same goals and my expectation is that they will respond to the challenge that is inherent in this proposal and reach new heights of organized crime prosecution success.

Cochairman NUNN. Well, I don't doubt in any sense, based on your long career, that you fully intend this. I have no quarrel with that, and I know you are dedicated, just as all of us are, to try to achieve results here. But do you have the authority to fire a U.S. attorney?

Attorney General THORNBURGH. No, I don't, but I have powers of persuasion that I would exert in the appropriate case if a U.S. attorney was not performing up to snuff.

Cochairman NUNN. Don't you have to make it a Presidential matter before you can basically discipline——

Attorney General THORNBURGH. That would be the last resort, but during my tenure in the Department of Justice in three different positions, I am familiar with cases where consultations have resulted in judicious resignations by U.S. attorneys who were felt by the Attorney General not to be doing a sufficient job.

Cochairman NUNN. Well, I guess you will have to understand our skepticism here because Mr. Methvin goes on to cite—and I am personally familiar with this, too—the Attorney General, in January 1988—this is not 7 or 8 years ago; this is last year—the Attorney General ordered strike force executive committees headed by U.S. attorneys to meet at least monthly to review Federal efforts and to improve communications among Federal agencies. In not one of the eight strike force cities studied by the General Accounting Office had the U.S. attorneys convened these executive committees, as required by the Attorney General.

So we are basing it on recent history. We are basing it on recent orders by your predecessor as Attorney General. Maybe there was some reason Mr. Meese didn't have the respect of the U.S. attorneys out there. Maybe there was failure to communicate properly, but the point is he gave an order and it didn't happen.

Now, I just don't know how you are going to enforce your orders, except by going in when the President of the United States is very busy and bothering him on a matter like this, which is very unlikely.

So how do you intend to make your orders stick when your predecessor obviously did not?

Attorney General **Thornburgh**. If such a quandary exists, Senator, it exists across the board and not just in organized crime cases. I have had no such problem in getting U.S. attorneys to accept my lead, and I think part of the problem in the two cases you cite results from the fragmented nature of the organized crime effort. There is no need for the organized——

Cochairman **Nunn**. There is nothing that keeps people from sitting down and having a meeting because it is fragmented. I mean, they didn't have to do a whole lot to comply with this order. All they had to do was meet once a month.

Attorney General **Thornburgh**. I have been to some of those meetings when I was a U.S. attorney and I do not regard them as terribly productive. I think a centralization——

Cochairman **Nunn**. Well, they must not have either. That makes the point. If U.S. attorneys don't regard something as productive, they don't do it.

Attorney General **Thornburgh**. I think if you give somebody marching orders that don't make sense, you are not always going to have them be followed. But that is why I think the consolidation, which would obviate the need for all this reporting and meeting and whatever, would enable the prosecutors to get about their business, which is putting bad guys in jail and not meeting and writing reports.

Cochairman **Biden**. In order to allow this to continue, I will be happy to yield my 5 minutes to the Senator from Georgia.

Cochairman **Nunn**. Well, I will just take one more question, Mr. Chairman. Thank you very much.

You cited the New York example as, I think, the best case for your proposition here. The strike force in Manhattan was abolished in 1976, as I understand it. Your statement this morning cites the Southern District of New York as, quoting you, "compiling a record of racket-busting under four successive U.S. attorneys unmatched anywhere in the country," end quote.

We heard testimony in April 1988, from Thomas S. Sheer, Assistant Director in Charge of the New York Division of the FBI, that nothing substantial had been done about organized crime in that district when he arrived in 1979. And I am quoting his testimony from last year. He says, quoting him, "By 1979, the management team at the New York office of the FBI realized that our efforts were not successful in really attacking the families in a meaningful way. There was a period of time when we conducted a self-analysis of our effort and we produced the conclusion that our intelligence base was inadequate and outdated and, probably more significantly, that there was no overall plan or any grand strategy to commit ourselves to," end quote.

Mr. Sheer went on to say that the FBI, not the U.S. attorney, then developed a comprehensive plan or strategy against organized crime, but discovered they had insufficient resources to implement it. To remedy this, the FBI, in effect, recreated the strike force concept by forming eventually eight organized crime task forces, combining the resources of the various agencies.

According to that testimony, the function of the strike force was not being carried out by the U.S. attorney's office, and instead the wheel had to be reinvented and restaffed by the FBI.

It seems that the major cases of which the U.S. attorney's office is justifiably proud were more recent and, actually, were the product of much groundwork by the Bureau and State and local law enforcement and later by a very aggressive U.S. attorney whom we know, Mr. Giuliani.

So this is the testimony we have had, and you see where we are coming from. We have basically been told that the example you cite as your basic case was one where the FBI had to go in and recreate the strike force in a de facto way because it had been abolished.

Attorney General THORNBURGH. I am not aware of anybody suggesting after 1976 that a separate, independent prosecutor's office, labeled a strike force, be reestablished in New York.

In point of fact, in every strike force, in every U.S. attorney's office, it is the investigative agencies—the FBI, the DEA, the panoply of investigative agencies that work with State and local agents—who make the cases. I would not quarrel with the enormous task that the FBI has done, but I think the citing of that testimony really proves too much because it doesn't indicate that success in accomplishing the destruction of the organized crime families that took place in New York depended upon whether or not that effort was headed by a U.S. attorney or by a separate and independent strike force.

In point of fact, I think Mr. Giuliani would be the first to admit that his successful prosecutions built upon work done by his two predecessors, Bob Fisk and John Martin, just as it did on the effective work of the FBI. But the notion that that effort in New York would have proceeded just as well under a separate, independent organized crime strike force prosecutor's office, I don't think is a proper conclusion from that testimony.

Cochairman NUNN. Well, I guess it depends on interpretation. My interpretation of it is he is saying that once the strike force was abolished in 1976, 3 years went by when virtually nothing happened, and then the FBI had to take it on itself to do in a de facto way what had been done away with in a de jure way by recreating——

Attorney General THORNBURGH. I think that is an important point, Senator, and I might speak to it. There is no one who believes more in cooperation between investigative agencies and in doing away with the kind of turf problems and jurisdictional disputes that hinder effective law enforcement than this Attorney General.

There is no one who believes more in the kind of cooperation early on in a major investigation between the investigative agencies and the prosecutors than this Attorney General.

But I also suggest and strongly believe that the accomplishment of those goals does not depend upon having a separate, independent prosecutor's office alongside the U.S. attorney. It can be accomplished much better when there is a centralized direction, the ability to coordinate, the ability to get into these investigations early on.

So I think three-quarters of the argument made by Mr. Methvin, by the FBI, and by you, Mr. Senator, I would buy completely; that is, the need for the kind of coordinated, interactive activity that characterized the investigations about which his testimony was given.

Cochairman NUNN. Mr. Chairman, I think my time and yours have now expired, so I will yield.

Cochairman BIDEN. Senator Thurmond.

Senator THURMOND. Thank you, Mr. Chairman.

Mr. Attorney General, I just have 5 minutes and I will ask the questions fast, and if you will just make the answers brief, I would appreciate it.

Attorney General THORNBURGH. Yes or no.

Senator THURMOND. Attorney General Thornburgh, critics of your plan envision the strike forces being diluted over time. Please discuss what will keep the strike force units from doing the routine of the U.S. attorneys' office.

Attorney General THORNBURGH. The plan that we have submitted clearly would prevent any dilution of the effort in organized crime in two ways, Senator; first of all, by taking the intact strike force offices and making them units of the U.S. attorney's office, given, as I said, the same responsibilities the day after as they had the day before the consolidation took place, and obliging that there be a maintenance of effort at the level of personnel that were involved.

The second way is the oversight that is provided by the Organized Crime Council of that maintenance of effort and the lookout that would be available if there were any attempted dissipation.

Senator THURMOND. Mr. Attorney General, the Federal Bureau of Investigation initiates more than half of the strike force cases. It has a comprehensive organized crime data base and organizes its own task forces to investigate organized crime.

Has the Department of Justice consulted with the FBI concerning this merger?

Attorney General THORNBURGH. My communication from Director Sessions indicated that the consolidation proposal before these committees would have no adverse effect on the FBI's organized crime program.

The major concern of the FBI is that there be an identifiable unit devoted to organized crime cases, and that would be provided in every U.S. attorney's office by the consolidation plan that I have proposed.

Senator THURMOND. Attorney General Thornburgh, in your prepared statement you note that this consolidation will make the Department of Justice's efforts against organized crime more efficient. Would you discuss very briefly whether this merger will save the taxpayers money?

Attorney General THORNBURGH. I am loathe to give any promises about saving taxpayers money, Senator, but I think common sense tells me that when you are not maintaining two separate physical locations for prosecutors' offices, two separate law libraries, two separate communications systems, and you have the opportunity to effect savings through merger and consolidation in the number of support personnel there, that there is an opportunity for efficiency and economies of scale that might well produce savings.

Senator THURMOND. Attorney General Thornburgh, in your prepared statement you note that one of the difficulties faced by the

Department of Justice in your war on organized crime is the identification of organized crime elements in the early stages of an investigation. In addition, you note that these cases often change their character as cases develop. Would you discuss briefly how this merger will assist the Department in addressing these problems?

Attorney General THORNBURGH. By centralizing the authority in the U.S. attorneys' offices, some of the artificial designations that have occurred sometimes in the early stages of an investigation and had to be undone, which has, incidentally, over the years resulted in organized crime strike forces handling cases that were arguably non-organized crime cases and the counterpart U.S. attorney handling cases that were arguably organized crime cases—all of that would become moot because the central direction of the U.S. attorney over the entire office would ensure that these kinds of disputes would not arise.

Senator THURMOND. Mr. Attorney General, critics of the plan claim that many U.S. attorneys' offices are not up to the task of combatting organized crime. What is the difference in the level of experience between the strike force attorneys and assistant U.S. attorneys?

Attorney General THORNBURGH. That will vary, of course, from district to district, but overall there is a rough equivalence between the amount of time served by assistant U.S. attorneys and by strike force attorneys. As I say, in certain districts that may be skewed one way or another, but there is no dramatic difference.

And as I said, in the last 20 years the number and experience and the length of service of assistant U.S. attorneys has increased substantially, to the point where they in many cases are career prosecutors themselves.

Senator THURMOND. Mr. Attorney General, the plan for consolidation provides for the creation of an Organized Crime Council which will receive and coordinate the various plans submitted by the U.S. attorneys in order to formulate and monitor a true national strategy.

Would you discuss briefly how the council will prove to be more effective than current efforts to formulate a national strategy?

Attorney General THORNBURGH. The council would be chaired by the Attorney General and include the Deputy Attorney General, the Assistant Attorney General in charge of the Criminal Division, a designee of the Attorney General's Advisory Committee, and the head of each concerned Federal investigative agency.

This would be the board of directors of the effort against organized crime. This would be the commission of law enforcement officers to deal with the heads of the various organized crime efforts that we are encountering, and would set the policy and would monitor the implementation of that policy in each of the U.S. attorneys' offices where these units were to be maintained.

For the first time, an effective, centralized control which is made up of representatives of all of those who have prime concern in this area would be, on a day-to-day basis, in charge of policy and direction and monitoring and ensuring accountability to the Department of Justice of the organized crime program.

Senator THURMOND. Mr. Attorney General, my time is up. I want to commend you for the manner in which you have presented your case, and there is no question in my mind that what you are asking for is warranted.

Attorney General **Thornburgh**. Thank you.

Cochairman **Biden**. Senator, since my time is, in fact, up, Senator Kennedy.

Senator **Kennedy**. Thank you.

General, you would agree that the problem of organized crime is still a major problem in the country today, would you not?

Attorney General **Thornburgh**. Absolutely.

Senator **Kennedy**. And that the strike forces have been extremely successful in prosecuting organized crime?

Attorney General **Thornburgh**. Yes.

Senator **Kennedy**. In your 1974 report, you said that there were two conclusions that received wide support from both U.S. attorneys and strike force chiefs. One was the exchanging of intelligence information, and, two, providing concentrated and lengthy attention by the prosecutors.

And then in your 1974 report you also stated: "While the vast majority of U.S. attorneys rated the strike forces as successful, uneasiness about the strike forces was apparent." Isn't that what this is really about, the uneasiness of the U.S. attorneys because they don't control the strike forces?

Attorney General **Thornburgh**. No; it is about the uneasiness of an Attorney General who doesn't feel that the best management model is in place.

Senator **Kennedy**. Even though the nine previous Attorneys General reached a different conclusion?

Attorney General **Thornburgh**. I don't think that is accurate, Senator.

Senator **Kennedy**. Your report also stated that the ability of merged strike forces to devote large amounts of time and effort to major investigations was problematical. That was your conclusion, it was problematical, and your report quoted one U.S. attorney as stating that he would be unable and unwilling to maintain the uniqueness and expertise of the unit. None of the strike forces merged at that time, despite your recommendations, isn't that correct?

Attorney General **Thornburgh**. No; that is not correct, Senator. Following our recommendations, Attorney General Saxbe, who succeeded Attorney General Richardson, who commissioned our report, directed then Assistant Attorney General Henry Petersen, in charge of the Criminal Division, to undertake the office-by-office review which our committee had recommended. As a result of Henry Petersen's review, one strike force office in Baltimore was closed.

I then succeeded Attorney General Petersen and, at the direction of then Attorney General Levi, continued the office-by-office review during the year-and-a-half that I held that position, as a result of which the New Orleans office was closed, the St. Louis office was closed, the Pittsburgh office was merged, and the Southern District of New York office was merged. That study was continuing as I left office, but was abandoned thereafter.

Senator **Kennedy**. All right. Well, let us just take one of those. Let us take the New Orleans strike force which was closed. Subsequently, it was reopened 2 years after you closed it. Did that office subsequently convict Carlos Marcello, the boss of the New Orleans mob family?

Attorney General THORNBURGH. That is my understanding.

Senator KENNEDY. So it was reopened after you closed it. In 1976, as Assistant Attorney General, why did you not merge all of the strike forces into the U.S. attorneys' offices as you are now proposing?

Attorney General THORNBURGH. I was not directed to by the Attorney General. I was directed by the Attorney General to review them on an office-by-office basis, and therefore to have closed them all or merged them all would be in violation of the orders that I had received.

Senator KENNEDY. In November of 1976, in a speech, you said between 1970 and 1975 over 300 top-echelon racketeering figures were convicted on Federal charges brought by strike forces and U.S. attorneys. In some communities, the mob structure was severely disrupted by relentless prosecutive efforts.

Most of those, as I understand, were the result of successful accomplishments by the strike forces, were they not?

Attorney General THORNBURGH. That is right. I want to make it clear that I am not here to denigrate in any way the accomplishments of the individual attorneys within the strike forces since their inception. What I am here to talk about, as I emphasized at the beginning, is how to do the job better, how to run our operations and manage our operations in a way that will enable us to use the full force of the Federal prosecutive effort against organized crime, and not fence out the able offices of 93 U.S. attorneys from these very important investigations.

Senator KENNEDY. In 1987, the Attorney General Advisory Council echoed your earlier recommendations, as I understand it, is that correct?

Attorney General THORNBURGH. Yes; that is my understanding, too.

Senator KENNEDY. And then Assistant Attorney General Bill Weld also concluded that there was no valid reason for turf battles between the strike forces and U.S. attorneys in view of the guidelines governing the relationship between the two offices. Those guidelines, as I understand it, have been in effect for 19 years. They acknowledge the U.S. attorneys as the chief Federal law enforcement officials in their districts and give the U.S. attorneys the authority to authorize or refuse initiation of all strike force investigations. Why can't the guidelines solve the problem now?

Attorney General THORNBURGH. Mr. Weld, at my request, reviewed the proposal that is before these committees. He made certain suggestions with regard to the method in which the consolidation should be carried out. All, save one, are incorporated in the plan as it is before these committees, and Mr. Weld supports the plan as submitted.

The guidelines, the meetings, the reports, the consultations, are all a byproduct of a bifurcated law enforcement effort which has proven to be counterproductive over the years. I want less in the way of reports, less in the way of guidelines, less in the way of meetings and consultations and committees, and more in the way of action out of a unified antiorganized crime effort.

An end to turf battles is at the very heart of what this President has directed this Attorney General to do, and that is what is at the heart of the proposal that we are making. You can't have turf battles when there is only one turf, and that is what we would have with the consolidation proposal that I have presented.

Senator KENNEDY. Mr. Chairman, if I refrain from questioning for the next hour, I would appreciate an additional 2 or 3 minutes here, if I could just continue this line of questioning.

Cochairman BIDEN. I would ask unanimous consent that you be able to have another——

Senator HATCH. I agree with that.

Cochairman BIDEN. Excuse me. While we have an interruption, I apologize. I have to chair the Foreign Relations Committee hearing. Mr. Bennett is before that. I will be up and down, so I want you to know my absence is not for any reason other than.

Attorney General THORNBURGH. I won't take it personally, Senator.

Senator KENNEDY. I just have a few final questions, General Thornburgh. As I understand it, the U.S. attorney in Detroit recently informed the FBI that after the merger he was going to assign the strike force attorneys, except one, to narcotics and public corruption.

And the U.S. attorney in Brooklyn recently stated: "There ain't no such animal as organized crime specialists," and that after the merger organized crime cases would be prosecuted by experienced attorneys in his office. Recently, 9 of the 15 Brooklyn strike force attorneys resigned, including the chief, the acting chief, and the deputy chief.

Could you tell me how many strike force attorneys are authorized and on board and how many have resigned since your announcement of your intention to merge the strike forces this year?

Attorney General THORNBURGH. I can't give you those figures off the top of my head, but will furnish them to you. In general, there has been a normal rate of attrition that has been exacerbated somewhat by the uncertainty about the future of the operations occasioned by this delay.

But in the case of the Eastern District of New York, those attorneys in some cases—and I inquired about that because I was concerned about it—have gone into private practice. One has become an assistant U.S. attorney in another office.

But, by and large, our strike force attorneys are dedicated prosecutors. They are on the job, they are doing the job, and I would expect the vast majority to continue to do so. But we will furnish——

Senator KENNEDY. Just for the record, if you could provide the information, if you become aware of those earlier statements, the quotes that I had made representing those individuals, and also what has happened in terms of the current employment.

Attorney General THORNBURGH. Certainly.

[The information was not available at press time.]

Senator KENNEDY. I mentioned earlier, General Thornburgh—and this is my final question—that there have been a series of recommendations over the period of the last 20-odd years about eliminating or restructuring these various strike forces, and every Attorney General up to yourself has rejected those.

My principal concern is over how we can expect that the U.S. attorneys, with their own agendas, are going to coordinate these multidistrict investigations and prosecutions, if you would just give us one final response to that.

Attorney General THORNBURGH. I am not sure that those views have been rejected. The strike forces——

Senator KENNEDY. Well, they have all supported the strike forces.

Attorney General THORNBURGH. Well, if I could just develop that, Senator, the strike forces were initiated by Ramsey Clark. They were vastly expanded by John Mitchell. They were asked to be reviewed by Elliot Richardson, who first commissioned the office-by-office review that resulted in some shutdown and some merger, a course that was followed by William Saxbe and by Edward Levi. I don't think that the actions of Messrs. Richardson, Saxbe, and Levi can be taken as an endorsement of the separate strike force operations.

Judge Bell and Ben Civiletti made no alteration and, in fact, did, I think, by their actions clearly underwrite the actions of the strike forces. William French Smith and Ed Meese both looked at and altered in some ways the configuration of the strike forces.

But the most important thing that was done during the tenure of Attorney General Smith was to attack the most important organized crime problem we have in this country today, that of narcotics and dangerous drugs, by not following the model of the strike forces, by not creating an independent prosecutive unit in those areas where drug problems were to be attacked, and using instead the existing U.S. attorneys' offices through the drug enforcement task forces, which I earlier pointed out have been praised both within and without Government as the model for interagency cooperation in law enforcement today, not 20 years ago, but today.

So I suggest that notion that every U.S. Attorney General who has examined the strike forces since 1967 has given them a vote of confidence is somewhat inaccurate. This Attorney General gives a vote of confidence to the individuals who work in those offices and have compiled an enviable record.

But I feel that the structure and the management responsibilities and the lines of authority and the increased accountability that would come from the consolidation proposal would enable us to do this job even better.

Senator KENNEDY. My time is up.

Cochairman NUNN. Thank you, Senator Kennedy.

Senator Hatch.

Senator HATCH. Thank you, Chairman Nunn.

Welcome to the committee, General Thornburgh. I have read a number of these statements, including yours, and also Eugene Methvin's statement, and I have to say at the outset that I share some of his concerns, and I think you do, too, concerning what needs to be done in these areas, what has been done in these areas, and what changes may or may not accomplish in these areas. I think he writes probably as well about these problems as anybody I know, and is very concerned.

But your reorganization plan, as I view it, calls for the establishment of a special cadre of experienced prosecutors to try organized criminal cases throughout the country, and I believe that would be a very valuable byproduct of your planned reorganization.

Now, how many attorneys do you anticipate will be included in those groups?

Attorney General THORNBURGH. Initially, we would select 20 of the most experienced and qualified prosecutors from the present field complement of the strike forces to constitute this strategic reserve. That could vary depending upon need, but I can't imagine, based on my experience, that there would ever be a need for less than 20.

Senator HATCH. You anticipate there might be a need for much more than 20?

Attorney General THORNBURGH. Absolutely.

Senator HATCH. And you will be continually trying to build up that cadre?

Attorney General THORNBURGH. That will be a management decision that has to be made on the basis of experience, but what we want to do is increase the fire power of the Federal effort across the country by making sure that we have enough people to meet needs.

We do that in other areas, as you may be familiar, Senator. In the savings and loan investigations that are going on in Dallas through the Dallas fraud task force, we have attorneys, experienced prosecutors, from the Fraud Section, which is a counterpart of the Organized Crime Section. The Public Integrity Section will send out experienced prosecutors to help in a case that a U.S. attorney is unable or unwilling to handle.

Senator HATCH. You have some prosecutors in particular areas to be able to take care of particularly difficult problems, and you will still have that power?

Attorney General THORNBURGH. Ironically, that is the very basis upon which the strike forces were originally established. In 1967, it was not Attorney General Clark's intention initially to create side-by-side prosecution units.

Senator HATCH. That is right.

Attorney General THORNBURGH. It was to have, as Bob Peliquin, the head of the Buffalo strike force——

Senator HATCH. So you would have the force and the fire power to move in there when there has to be a move?

Attorney General THORNBURGH. That is right, a hit-and-run effort, make sure you had your troops deployed where you needed them.

Senator HATCH. Not necessarily a permanent group that just works in one area?

Attorney General THORNBURGH. Exactly.

Senator HATCH. I think that although you can't fire U.S. attorneys, you certainly can determine who tries those cases in that area.

Attorney General THORNBURGH. Yes.

Senator HATCH. And you can certainly preempt that right.

Attorney General THORNBURGH. Yes.

Senator HATCH. And you can send experienced prosecutors in there, and if you develop this experienced cadre of prosecutors, you are going to be able to send those anywhere you want to in the country with more flexibility than having permanently established strike forces in those areas.

Attorney General THORNBURGH. Exactly.

Senator HATCH. Now, it seems to me that makes some sense. I think you also understand that since there is an affinity for strike forces, naturally, it sounds good, and many good things have come from the strike forces.

But I think it is a mistake to say that a great many good things have not come from the politically appointed U.S. attorneys, because I find that as we review those on this committee, there are some pretty darned fine people, with some exceptions, but by and large, across the board, pretty fine people who become U.S. attorneys in this country.

Attorney General THORNBURGH. Again, without being tiresome, I would like to direct the members of these committees' attention to the report of the Organized Crime Drug Enforcement Task Force Program, and operation run in each of the 13 areas where it operates regionally by the U.S. attorneys, and urge this careful reading of this report.

An examination of the successes that have been had by these task forces which are run by the U.S. attorneys, I think, should give Senators who have doubts about this management decision a great deal of comfort as to how well this task can be undertaken under the direction of U.S. attorneys.

Senator HATCH. I think that is true, and you should be well aware, and I think we all up here are well aware, that this is a monumental decision; that you understand that you are going to be judged by this decision and by how aggressively organized crime is going to be pursued in this country by this decision. And I have confidence that you are trying to do, in your best judgment, what really will lead an even more coordinated approach against organized crime in this country.

Now, will the 20 attorneys in this organized cadre of experienced professional prosecutors—will this be a sufficient number to reestablish the hit-and-run abilities, really, that the strike forces had before they became anchored in any particular districts?

Attorney General THORNBURGH. If it isn't, they will be supplemented.

Senator HATCH. In other words, you are dedicated to having that hit-and-run capability even enhanced by this management decision?

Attorney General THORNBURGH. That is right.

Senator HATCH. Well, that pleases me and that goes a long way with me, and I would think it would go a long way with anybody who is concerned about this issue. Let me just ask one other—I am sorry. My time is up. Let me just end with that, since my time is up. I appreciate your comments and I appreciate what you are trying to do.

Cochairman NUNN. Thank you very much, Senator Hatch.

Senator Glenn.

Senator **Glenn**. Does he have one more?

Senator **Hatch**. If I could ask one more question, I can't stay any longer. It would be all right, but I don't want to take any other time.

Cochairman **Nunn**. There is no problem at all. Go ahead, Senator Hatch. I just want to say we have got 12 more witnesses. And, again, the best I know, there is nobody who is going to be able to be here beyond 12:30, so we have got a severe time problem.

Senator **Hatch**. Well, let me ask one more question and I promise I won't ask any other witness a question. How is that?

Do you believe, Mr. Attorney General, that the U.S. attorneys will be interested—and this is a concern of all of us—in the long-term, arduous, difficult, slogging work that has to be done in these complex prosecutions or cases which really is absolutely required in order to prosecute organized criminal cases?

Attorney General **Thornburgh**. I can only answer that on the basis of the record, and I think the record supports the conclusion that not only organized crime cases, but in complex fraud cases, tax cases, cases involving public corruptions, the shortcomings in our securities and commodities markets, and most of all in drug enforcement and money laundering cases, the latter of which you can find no more complicated case in the inventory of Federal prosecutions, have been handled superbly by U.S. attorneys, and there has been no suggestion that the Drug Enforcement Task Force program be replaced by a counterpart of a separate and independent strike force program.

Senator **Hatch**. Well, thank you. Thank you, Mr. Chairman.

Cochairman **Nunn**. Thank you, Senator Hatch.

Senator **Hatch**. And thank you, Senator Glenn. I appreciate it.

Cochairman **Nunn**. Senator Glenn.

Senator **Glenn**. Thank you, Mr. Chairman. I would ask unanimous consent that my opening statement be included in the record as though delivered.

Cochairman **Nunn**. Without objection.

[The prepared statement of Senator Glenn follows:]

OPENING STATEMENT OF SENATOR JOHN GLENN—STATUS OF THE ORGANIZED CRIME STRIKE FORCE PROGRAM

The Organized Crime Strike Forces have been singularly successful in attacking La Cosa Nostra over the last two decades. Virtually all of the crime families across the United States have seen some—if not all—of their leadership prosecuted and put away by the Strike Forces.

The Strike Forces bring with them significant experience with organized crime. They are a resource that should not be tampered with unless there are compelling reasons to do so. If it isn't broken, then don't fix it.

I am deeply troubled by the unilateral actions of the Attorney General in arbitrarily downgrading the independence of the Department's Organized Crime and Racketeering Strike Forces by making these strike forces subordinate to the U.S. Attorneys in each district.

Unfortunately, I have not heard any compelling reasons why the Strike Forces should be absorbed into the U.S. Attorneys offices. To the contrary, although the Strike Force may need some fine tuning, there are good reasons not to move them.

For one, it is only natural that a U.S. Attorney assign his most experienced assistants to the most immediate cases, often those with local and political significance. And it is only natural that the most difficult cases, ones that take years to develop and may eventually be prosecuted in some other jurisdiction, will fall to the less experienced. These are often the organized crime cases. They are complex, long-term, and demand substantial resources.

Also, is can often be advantageous for the government to have flexibility in choosing the forum for prosecuting organized crime. Sometimes the U.S. Attorney will be the better choice, and sometimes it will be the Strike Force. We should think long and hard before cutting off any options.

Perhaps the Attorney General and proponents of this change can make a compelling case for downgrading the Strike Forces. From my perspective, the burden of proof shall rest upon the Attorney General. And I wonder, in light of all the serious crime problems this nation is now facing, whether this move is really necessary. Regardless, the issue requires a close examination before any action is taken.

I commend Senator Nunn and Senator Biden for convening this hearing to address the issue. It is important and deserves closer scrutiny before any changes are made.

Senator GLENN. I go back to why the strike forces were formed to begin with, Mr. Attorney General, and I think that it was because, as I recall and as our staff has pointed, of the flexibility and the expertise they could bring to particular crime problems.

U.S. attorneys certainly are very capable people, but they are locally selected, they are locally tied in, they are potentially more vulnerable. I know they are all honored people, as you were when you served in that position, but they are subject to more local pressures of friends and associates. They are political appointees.

I believe the original need was that there was a feeling that we couldn't really leave to the locals to be maybe as aggressive as was required to cope with the crime situation at that time, and that we needed a second opinion, if you will, to make sure that we were being as aggressive as the situation required, to keep the heat on everybody to do a good job.

That was my understanding of the strike forces, and I guess I don't see what has changed. Now, what has altered that? We certainly haven't done away with crime. We have made a lot of advances on the families and that sort of thing, but as far as crime in the country, it is still a very tough problem, particularly with drugs, as we know.

It seems to me that this is sort of a floating crap game. We have crime in one part of the country, it moves to another part of the country, it moves back and forth. It is Texas, then it is Florida and Arizona where we have problems across the border and we are catching people. It is sort of a floating thing, and to assign these people to the individual AG offices, to me, is something I question.

The strike forces were formed to address a very specific need. I think the need is still there. I guess that is the reason I don't see why we are cutting back on them—or, not cutting back, but reassigning those people. Could you address that, please?

Attorney General THORNBURGH. I think there have been changes in the past 20 years, Senator Glenn. First of all, as I indicated in my testimony, there are more, better, and more experienced U.S. attorneys and assistant U.S. attorneys handling more complicated and lengthier cases today than they did 20 years ago.

I think there has been a change in the character of organized crime. No longer will we focus strictly on the traditional organized crime families. There are a multitude of different kinds of organizations with different techniques that are being handled outside of the strike force channel.

And, third, we have had experience during the 1980's in dealing with the most serious organized crime problem, the business of drug trafficking, without having to create these second-opinion offices, and it has been done very effectively.

And I think one of the characteristics of any manager of any organization is to not get bogged down in the status quo. My careful review, based on 20 years of experience both as a U.S. attorney and as the person in charge of the strike forces, convinces me that this management decision makes sense.

It will increase our fire power; it will let into the prosecutive arena those who have previously been excluded for arbitrary reasons, and, as my colloquy with your colleague, Senator Hatch, indicates, create a whole new capability to reach organized crime in areas where there are no Strike Forces today. But we can dispatch experienced prosecutors, as you point out, when the need arises to aid and support the U.S. attorneys in their efforts.

Times do change, problems change, challenges change, and solutions have to change as well. And the kind of solution that I have proposed, I suggest, is worth a try.

Senator GLENN. Well, if it ain't broke, don't fix it, I guess is the way I sort of look at this thing.

Attorney General THORNBURGH. Well, you know, if you apply the——

Senator GLENN. I am not sure it is going to be better. I think you lose a lot by going this—you have the potential of losing a lot. U.S. attorneys are political people, and I am not denigrating them in any way, but they are ambitious politically. And that isn't to say that they are not dedicated and don't try and do a good job, but I think there is also a tendency, maybe, to go after the glitzy, the high-visibility, the *Helmsley*, the *Myerson* cases, as opposed to maybe a third-rate family member that might have more impact on long-term eradication of crime. And the strike force makes a second opinion there that I think isn't all bad.

Attorney General THORNBURGH. I have discussed this matter, as you might imagine, over 20 years with people involved with the organized crime program at all levels, and I have never discovered a case where an Organized Crime Strike Force was established because of the inadequacy of the U.S. attorney.

It was established because additional fire power was needed, and a decision was made 20 years ago that that should be done by forming these separate counterpart offices rather than supplementing the U.S. attorneys' operations. I happen to think that in today's world, with today's organized crime problems, that we can do it better under one roof.

Senator GLENN. My time is up. Just 10 seconds. Since April, there has been a requirement that an inspector general be appointed over at the Justice Department. That nomination has not been made yet. Can you tell us when the IG will be appointed?

Attorney General THORNBURGH. We have a number of persons under consideration. There is an acting inspector general on the job, a career Department of Justice person who is filling that position, and I would expect that we will soon recommend to the President a suitable appointment.

Senator GLENN. I hope that can be done soon. Thank you, Mr. Chairman.

Attorney General THORNBURGH. It is an important position, Senator, I agree.

Senator GLENN. Yes, very important. We have had wonderful IG work in other agencies of government. I think it is very good. I hope you can get that appointment made soon.

Cochairman NUNN. Thank you, Senator Glenn.

I believe Senator Grassley is next.

Senator GRASSLEY. Thank you, Mr. Chairman.

Mr. Attorney General, I want to get to the points I raised in my opening remarks. However, there is one issue I want to go over with you first.

During this very week that the President makes his first major television address of his administration introducing the new national drug control strategy, I think it is important that you respond to the concern that the administrative changes you are making with the strike forces indicates a lack of resolve in the administration to fight organized crime and its role in the illegal trafficking of narcotics in the United States. It has raised that question in some people's minds.

Attorney General THORNBURGH. I can't understand how anyone who is familiar with the plan would come to such a conclusion, Senator Grassley. I am astonished that anyone has indicated that to you.

Let me reiterate, this plan of consolidation is designed to increase the Federal resources brought to bear on organized crime in general, including organized crime operations in the drug area. It does not affect in any way the major tools now being used by the Federal Government to combat organized crime and drug trafficking, which is not the strike forces, but the Organized Crime Drug Enforcement Task Forces existing under the direction of the U.S. attorneys.

In effect, we are facing up to the problem that the President and Director Bennett have described as a major hinderance to advancing the war on drugs; that is, turf battles, having two offices or agencies quarreling over who should take what kind of case. I find that intolerable, and the merger and consolidation that I am proposing is designed expressly to do away with that kind of phenomenon.

So for anyone to look at this proposal as encompassing any dissipation of resources or any weakening of resolve to deal with the organized crime aspects of drug enforcement, to me, is unthinkable.

Senator GRASSLEY. All right.

Now, I asked you in my opening remarks to consider that every proposed administrative change—even though obviously you wouldn't be making it if it didn't appear to have more benefits than negative aspects—isn't all upside; there is some downside to it.

You have got to have some concern about whether or not these changes are entirely positive. As you considered the pluses and minuses about the reorganization, I'd like to know what negatives you might have considered, even though you rejected them? Obviously, there are some negative aspects of the reorganization, some things that concern you as to whether or not this is really going to work?

Attorney General THORNBURGH. I think the only concern that I have is one that relates to our law enforcement operations generally in both investigators and prosecutors, and that has to do with the persons that we are able to enlist and maintain in a sustained law enforcement effort.

If we get a U.S. attorney or an FBI special agent-in-charge or a Drug Enforcement special agent-in-charge or a head of a strike force unit or a head of the Criminal Division of the Organized Crime and Racketeering Section who digs in their heels and says they are not going to do this, that would be a problem. And if we get people in these areas who are not possessed of the professional skills and commitment necessary to do it, that would be a problem.

But I am somewhat comforted by the fact that we choose U.S. attorneys in consultation with you and your colleagues. Most of the U.S. attorneys who are appointed are appointed on the recommendations of Senators who know their States and know the districts in which these U.S. attorneys are going to operate. And I am comforted by the fact that our law enforcement agencies have never been at a higher level of proficiency so far as recruiting and maintaining people.

At the same time, I worry about the pay and benefits levels within Federal law enforcement. A beginning associate in a major Manhattan law firm today makes about three times what a beginning assistant U.S. attorney makes, and that is more than a beginning strike force lawyer makes. The same disparities are now creeping into investigative agencies and the like. You and your colleagues have thankfully recognized this and created the commission which will be reporting this fall on Federal pay and benefit levels to keep us competitive.

But I think the only shortcoming I would see here is in the personalities involved, and that is a problem government-wide. My sense is that the U.S. attorneys are eager to accept this challenge, that they are anxious to have this matter resolved so that they can get on with the business at hand. But there is always a possibility that we may have, as Senator Kennedy suggested, someone who hypothetically would not exhibit that degree of enthusiasm, but you would have that same problem with the existing structure.

Senator GRASSLEY. Thank you.

Cochairman NUNN. Thank you, Senator Grassley.

Senator Simon.

Senator SIMON. Thank you, Mr. Chairman, and it is good to have—I don't ordinarily have Senator Sam Nunn as a presiding officer.

General, I did receive a note from your staff saying you would sooner postpone questions on the refugee problem. I understand you are testifying next week. I would ask one question, however, that is nontechnical, and that is, we are in the process of some major decisions on the whole refugee situation.

The former commissioner has retired and the new commissioner is not in yet, and has no background, to my knowledge, in immigration and refugee affairs. The question is, Who is calling the shots on this question on the matter of refugee and immigration policy at this point.

Attorney General THORNBURGH. The policy is under consideration by an interagency group made of representatives of the Department of Justice, the Department of State, the National Security Council, and other appropriate agencies.

Senator SIMON. And if Senator Kennedy, who is on the Immigration Subcommittee, or Senator Simpson or I—if we want to talk to someone who is involved in policy, to whom do we go at this point?

Attorney General THORNBURGH. In terms of policy matters, I suspect the best place to come to initially would be me and then, depending on what the issue was, because this is a multiagency question, I would be glad to try to sort out—I don't have all the answers, or many of the answers, Senator.

Senator SIMON. I don't know of anyone who has all the answers.

Attorney General THORNBURGH. But if you have concerns, we will try to make sure that they are responded to.

Senator SIMON. OK.

Attorney General THORNBURGH. Let me say, the reason that I don't want to get into detail today and will await a later opportunity is that this process, as you can gather, is under serious review at many levels in many agencies and I don't want to be premature in expressing conclusions that may not have been reached, nor do I want to appear to be nonresponsive in giving you answers that necessarily take that into account.

Senator SIMON. I understand. If I sense the tenor of things correctly here, and I may not, your proposal on the strike force may be in some trouble here. The question is, Are there alternatives that can move us in the same direction?

At the present time, I understand that if, for example, Tony Valukas, who is right in back of you—as people in the U.S. attorney's office are appointed, they are appointed by him, not by Washington, is that correct?

Attorney General THORNBURGH. They are approved by Washington, yes.

Senator SIMON. They are approved by Washington?

Attorney General THORNBURGH. There is a consultative process. He submits recommendations.

Senator SIMON. But in the case of a strike force, they are appointed by Washington; there is no local input. And it seems to me that one of the things that would not be quite as sweeping as what you are suggesting is to give the U.S. attorney in whatever the appropriate jurisdiction is some input on the appointment of personnel.

Attorney General THORNBURGH. That might be addressing a problem that doesn't exist. I am not sure there is any complaint about the quality of the prosecutors in these offices.

The difficulty is the inherent potential for confusion, jurisdictional disputes, and things falling in the cracks or overlapping that results from having two separate offices addressing one problem.

Senator SIMON. I understand, but I guess what I am trying to do is, how do you structure this thing in a way that is maybe not quite as sweeping as you have suggested so there is a greater coordination. I think that seems to be the problem, and that problem, as I sense it from the testimony here today, is not in Washington.

That problem is in the local jurisdiction. Is that assumption correct?

Attorney General THORNBURGH. I think the manifestation of these overlapping jurisdictions is in the local level. There have been many attempts that have been tried and found wanting over the last 20 years to try to deal with the inherent anomaly of having two separate prosecutors' offices.

As I say, the experience in the drug area has been quite the contrary, where not two offices, but one office has been in charge of coordinating all of the investigative and prosecutive activities, and that is the model that I would recommend.

Senator SIMON. Finally—and my hope is that, frankly, some compromise can be worked out—one of the succeeding witnesses says the strike forces work more closely with the FBI than does the U.S. attorney's office at the present time. Is that a valid assumption, and if so, why?

Attorney General THORNBURGH. It may be based upon his or her experience. That is not an across-the-board phenomenon according to what I have learned from the FBI.

Senator SIMON. I thank you. Thank you, Mr. Chairman.

Cochairman NUNN. Thank you, Senator Simon.

Senator Rudman, you have been very patient.

Senator RUDMAN. Well, thank you, Mr. Chairman. I have really come here this morning more to hear this debate and hear the Attorney General's testimony, and I will certainly look at the other testimony because our appropriations subcommittee, as well as our permanent subcommittee, has a great deal to do with the funding of all of these things.

It is just my view, Mr. Attorney General, that we have to hold you absolutely accountable for the administration of your office, and I am sure that is the way you want it. Having said that, I expect that in the light of your past experience, my view is we ought to give you the benefit of the doubt as to any reorganization you want to do, unless it is so patently outrageous on its face that we think you have taken leave of your senses. I doubt if that is the case here.

Attorney General THORNBURGH. I will try to keep those away from you, Senator. I don't deny they don't occur from time to time.

Senator RUDMAN. Just one question and a comment. In last year's drug bill, the 1988 drug bill, which Senator Nunn and I spent a great deal of time on in the closing moments of 1988, one of the things that we did was to call on the Director of the National Drug Policy, alias the drug czar—I have never liked that—to essentially report on possible reorganizations within the Justice Department, including the strike forces—that was referenced—with a particular mind to what has emerged as the major crime problem of the 1980's, drugs.

Has that been done? Is there now consultation going on with Mr. Bennett? Could you give us some report on that?

Attorney General THORNBURGH. Yes; we have furnished all of the recommendations that we made to Director Bennett's office. I am somewhat reassured in that Director Bennett, in his national drug strategy, praises the drug enforcement task force operations, which I have referred to this morning, as, I believe I quote it correctly, a model of interagency cooperation.

It seems inconceivable to me that he would substitute for the OCDETF operation a strike force counterpart, and equally unlikely, in my view, that he would take a view that would run contrary to the President's already expressed favorable view toward the proposal that I have presented to you this morning.

Senator RUDMAN. Would it be fair to assume that one of the reasons that you believe that this is now necessary is, if you want to look at two points in time—the time of the creation of the Organized Crime Strike Forces in the 1960's, and the environment of crime and what it was at that time—and now look at a point in time now—just pick a date today, 1989—the makeup of crime in America in terms of its various composites is totally different today, in my view, than it was then. Is that accurate?

Attorney General THORNBURGH. That is exactly my view, and the underlying basis for the proposal that we have submitted.

Senator RUDMAN. As a matter of fact, if we were to follow the previous model, I suppose you could take some of the same justification—and there certainly was justification when Attorney General Kennedy did this back at that time because this was a whole emerging problem.

But you could take that justification in another way, I suppose—I wouldn't support it—and say, well, we ought to have Strike Forces that are limited to the drug area and, certainly, in the area of white collar crime in the securities markets. I mean, we could have so many specialties that we would be essentially falling over ourselves.

But in the final analysis, I daresay that there isn't anyone on this committee who would disagree with the proposition that the drug crime problem today and the securities white collar crime problem today, as separated from organized crime, is probably, in a quantum way, far more serious in terms of your responsibilities than organized crime families, as we viewed them, in the 1960's.

Attorney General THORNBURGH. I think the point is well taken that, obviously, drug trafficking is organized crime, the most visible and troublesome and threatening of the organized crime business operations that we have today. But it is no longer dominated by the traditional organized crime families that were the targets during the 1960's and 1970's and, accordingly, the mechanism that has been devised in the 1980's to deal with the Medellin drug cartel, with the Cripps and the Bloods, with the Jamaican posses and the other major business organizations described in what we furnished to you as our so-called Dun and Bradstreet report, is not a separate strike force. It is something run out of the U.S. attorney's office, described, as I said, as a model of interagency cooperation.

I think your point is well taken because, logic run rife, based on the rationale of the 1960's, we would have in any major metropolitan area a U.S. attorney's office, an organized crime strike force, a savings and loan strike force, a HUD strike force, a strike force looking into securities and commodities fraud, a strike force looking into defense procurement fraud. I needn't go on to illustrate the folly of that kind of activity.

Senator **Rudman**. Certainly, it would take care of the surplus of graduates of law schools.

Attorney General **Thornburgh**. I don't know. I think they would be falling all over themselves, and that is the real reason that underlies this.

Senator **Rudman**. Mr. Attorney General, let me just close by just making this comment. As you know, I have had some personal experience many years ago working with these strike forces in another capacity of mine. I got the impression at the time, right or wrong, that one of the problems that has existed—and it is unfortunate; it happens in the military as well—is there has been a certain elitism that has crept into this whole area.

There has been a good deal of ill feeling between many of the very competent U.S. attorneys' offices and the strike forces. I don't claim that either is to blame, but the fact is that these turf battles have derived out of a kind of an attitude that, well, we can do it better than you can, and that has not engendered good feeling in many of those offices.

I know you haven't said in your testimony, but would that be accurate?

Attorney General **Thornburgh**. I think that is true in some cases. I have heard the war stories from both sides, being a U.S. attorney and being in charge of the strike forces.

Senator **Rudman**. Well, I thank you for your testimony. You know, I understand the concern of Senator Nunn and Senator Kennedy, and I share that. I think that these units have done very good work, but I do think times have changed and my own view, unless somebody convinces me otherwise, is that we ought to hold you strictly accountable for what you do, but we ought to let you do what you think you want to do. That is my view.

Thank you, Mr. Chairman.

Cochairman **Nunn**. Thank you, Senator Rudman.

Mr. Attorney General—Senator Kennedy, do you have any other questions?

Senator **Kennedy**. No. Mr. Attorney General, today is a very special day. It is Sam Nunn's 51st birthday, and perhaps you would like to extend the good wishes of the administration. We are glad to have you, and Senator Nunn's interest in this is clear from his willingness to spend this time here with you and with all of us.

Attorney General **Thornburgh**. I appreciate that, Senator. I would have hoped to have a better present to give you, Senator, than forcing you to listen to Dick Thornburgh's views on the organized crime program, but I appreciate your interest in this program. As I said to you earlier when we met, it is one where we all share a common goal, and my only parting remonstrance and hope is that you will consider these proposals seriously.

They are not made lightly; they are not made out of any personal views. They are made in my assessment based on 20 years of dealing with the organized crime problem in a way that I firmly and sincerely believe will enhance our capability to deal with this threat.

And I am, frankly, deeply flattered that as many of your colleagues have expressed an interest in this program because we must count on your support and cooperation not only in dealing with organized crime, but with all aspects of the crime problem, and I look forward to continuing the kind of relationship that we have enjoyed.

Cochairman NUNN. Thank you, Mr. Attorney General. I think you see the interest of these two committees, one a subcommittee and the other the full committee, in this overall area. Whatever the outcome of this, I do agree with you that we all have the same ultimate goal. No one questions your dedication and sincerity in this area; I don't think any witness will.

We have differing views about organization, but we will be watching it very carefully, whatever the outcome, and I think that the results will be what we all will be most interested in.

Senator Kennedy, I appreciate very much your calling that to the attention of everyone. You didn't have to give the number, though. [Laughter.]

Cochairman NUNN. I would just ask, what was your last one? [Laughter.]

Attorney General THORNBURGH. Take the fifth amendment, Senator.

Cochairman NUNN. Thank you, Mr. Attorney General.

Attorney General THORNBURGH. Thank you, and happy birthday.

Cochairman NUNN. Thank you.

Attorney General THORNBURGH. Thank you, Senator.

[The prepared statement of Attorney General Thornburgh follows:]

Department of Justice

STATEMENT

OF

DICK THORNBURGH
ATTORNEY GENERAL

BEFORE

THE

COMMITTEE ON THE JUDICIARY

and

COMMITTEE ON GOVERNMENTAL AFFAIRS

U. S. SENATE

CONCERNING

ORGANIZED CRIME STRIKE FORCES

ON

SEPTEMBER 8, 1989

Introduction

I am pleased to testify today with regard to the Department of Justice plan to merge the present separate field offices of the Organized Crime and Racketeering Section (OCRS) of our Criminal Division into the United States Attorneys' offices.

At the outset, let me point out that those who characterize this plan as one to abolish these offices, known popularly as Strike Forces, are mistaken. Our merger plan is, in fact, designed to strengthen the fight against organized crime through efficient coordination and by making more resources available to the effort, reducing confusion and overlapping jurisdiction, and providing overall management through a newly-established Organized Crime Council in Washington.

What we are talking about, to a large extent, is a change that is more bureaucratic and managerial than substantive. To the public and to prospective targets of our organized crime fight, the day following the consolidation will be little different from the day preceding it. Over time, however, I believe this consolidation can lead to more prosecutions, more convictions, and to a more effective enforcement program. I have personally devoted a major portion of the past twenty years to the fight against organized crime. As a United States Attorney in Pittsburgh from 1969 to 1975, I worked closely with the Strike Force Office in Western Pennsylvania, which was established at my request in order to obtain the necessary personnel to step up our investigative and prospective capabilities. We empaneled the very first special grand jury in the nation under the Organized Crime Control Act of 1970 to mount an unprecedented attack on mob activities including gambling, narcotics, extortion, labor racketeering and public corruption in Western Pennsylvania, utilizing new tools such as court-authorized wire tapping and witness immunity statutes, and I personally prosecuted a number of cases against major racket figures and corrupt public officials.

By appointment of then Attorney General Elliot Richardson, I also chaired a committee of United States Attorneys appointed in 1973 to examine relationships between our offices and the Strike Force offices across the nation.

Thereafter, I served as Assistant Attorney General in charge of the Criminal Division during the tenure of Attorney General Edward Levi, under whose direction in 1975 I commenced an office-by-office review of strike force operations under my jurisdiction, in response to continuing concerns expressed by the United States Attorneys, a review again designed to strengthen our overall anti-organized crime effort.

While Governor of Pennsylvania from 1979 to 1987, I created the first organized crime unit within our State Police, supported legislation creating court-authorized wiretapping and witness immunity laws, empaneled the first statewide grand jury to investigate organized crime activities and, in cooperation with the state's attorney general, our crime commission and federal authorities, undertook efforts to contain the influence of organized crime as a high priority for our state.

That priority for the nation continues to this day in my service as Attorney General. Today, however, we find ourselves in an era when the traditional elements of organized crime are changing their tactics and new criminal organizations and techniques are emerging. This, we feel, requires new approaches and a new configuration in our efforts.

Prior Proposals to Consolidate

The Organized Crime Strike Force program, initiated in 1967 by Attorney General Ramsey Clark, has evolved into 14 permanent field offices employing approximately 130 attorneys. As early as 1970, the merger of the Strike Forces into the United States Attorneys' Offices was recommended by the Presidential Council on Executive Organization (the Ash Council). That recommendation was next repeated by the Attorney General's Advisory Committee of United States Attorneys in 1974, which recommendations were implemented in part during my tenure as Assistant Attorney General.

Again in February, 1987, the Attorney General's Advisory Committee (AGAC) submitted a formal recommendation to consolidate the Strike Forces to Attorney General Meese. That report urged that the consolidation take place largely in order to permit the United States Attorney in each district to direct all the law enforcement efforts in his or her district. The 1987 report noted that consolidation had already occurred in several districts, most notably in the Southern District of New York (Manhattan and Westchester County), where the results had been extraordinary, compiling a record of racket busting under four successive U.S. Attorneys unmatched anywhere in the country.

Attorney General Meese adopted some of the recommendations of the 1987 Report. Specifically, the Attorney General directed that the United States Attorney must thenceforth approve all significant Strike Force activities in advance and that the United States Attorney, rather than the OCRS Chief in the Criminal Division, should be the performance rating official for the Strike Force Chief, changes incorporated in the consolidation plan that I have sent to Congress.

More recently, in April of this year the General Accounting Office (GAO) issued a report which stopped just short of recommending merger. The GAO did identify several continuing impediments to efficient law enforcement that the consolidation is designed to eliminate. Specifically, the consolidation will end "prosecutor shopping" by investigative agencies and will eliminate the "turf battles" that have been noted in the present system. Further, consolidation of the offices would centralize the accountability for prosecuting crime in a district and would encourage U.S. Attorneys to dedicate their resources strategically to combat organized crime.

One of the difficulties faced by the Department of Justice today in our war on organized crime is the identification, in the early stages of an investigation, of organized crime elements. Let me illustrate by example. In the case of local corruption, or of drug importation, or of protection rackets or union pension fund manipulation, the question is now asked: is this an organized crime case? If it is, then the FBI refers the case to the Strike Force, which reports to Washington, and that entity undertakes the case. If it is not, the FBI refers the case to the United States Attorney who handles it. As it happens, cases often change their character as investigations develop. Because the process of transferring a case from one office to the other is cumbersome, Strike Forces have prosecuted "non-organized crime" cases and United States Attorneys often have prosecuted "organized crime" cases. Moreover, different aspects of the same investigation may have both organized crime and non-organized crime aspects.

I would like to mention one other development which has occurred since the initiation of the Strike Force program in 1967. During this interval the overall quality, quantity and independence of the United States Attorneys and their assistants has measurably increased. While I personally believe that United States Attorney's Offices in 1967 were up to the task of combatting organized crime, with appropriate support from Washington, what I believed then is now undeniably true. The

United States Attorneys and their greatly enlarged staffs are now recognized as dedicated professionals widely respected within their districts.

The Planned Consolidation

The essential features of the planned consolidation are as follows:

a. All attorneys and staff in the Strike Force Offices will be transferred to the United States Attorneys' Offices, and the current commitments to hire will be honored by the United States Attorneys' Offices, except as set out in paragraph (c). There will be no reduction in positions dedicated to the Organized Crime effort.

b. Each United States Attorney's Office in a district where a Strike Force exists will incorporate the Strike Force Unit within its office. These units will retain the name of "Strike Force" for the purpose of public recognition and to insure the continuity of their mission. The Organized Crime Council provided for in paragraph (d) shall be advised of changes in attorney personnel assigned to each unit.

c. A strategic reserve of experienced prosecutors will be established in the OCRS by recruiting approximately 20 additional lawyers and 10 additional support staff from the existing Strike Forces and elsewhere to be brought to Washington. These lawyers will assist and conduct prosecutions where needed. In addition, these lawyers will be available to identify and to target emerging criminal organizations.

d. An Organized Crime Council will be established to oversee the national effort against organized crime. That Council will be chaired by the Attorney General, and will consist of the Deputy Attorney General, the Assistant Attorney General, Criminal Division, a designee of the AGAC and the head of each concerned federal investigative agency. The Council will review policies, promote interagency coordination and will review priorities and evaluate the threat presented by emerging organized crime elements to establish national priorities. Within 60 days of the initiation of the consolidation, each United States Attorney in a district where a Strike Force exists shall submit to the Chairman of the Organized Crime Council a written strategic plan to identify and to address organized crime conditions in that district. From these plans, the Council shall formulate a national strategy for the investigation and prosecution of organized crime. The Council or its representatives will conduct field visits of each Strike Force Unit on a biennial basis and will report to the Attorney General with regard to the implementation of the national strategy developed by the Council.

e. The existing organized crime case management system will remain intact. The Strike Force Unit in each United States Attorney's Office will report case initiations and prosecution memoranda to the OCRS for approval and will report all other significant developments to the OCRS and to the Executive Office for United States Attorneys. These reports will serve two functions: (i) to keep in place the same controls and standards in the opening of new cases to be handled by Strike Force Units, and (ii) to maintain a uniform record keeping system for organized crime cases consistent with that used in the past.

f. The United States Attorney would name the head of the Strike Force in his or her district, with the concurrence of the Assistant Attorney General, Criminal Division. Decisions as to the hiring or transfer of Strike Force attorneys within a District will be made by the United States Attorney with the concurrence of the Assistant Attorney General, Criminal Division.

g. Commencing in the calendar year following the consolidation, and annually thereafter, the OCRS will report to the Organized Crime Council on the status of each of the Strike Force Units consolidated into a United States Attorney's Office.

Reasons for the Consolidation

The critical benefit from the consolidation is that the Department will be able to utilize finite resources more comprehensively against organized crime. This is particularly true in those offices where United States Attorneys are actively prosecuting traditional organized crime elements with their own resources, or where they are facing the threat of emerging criminal groups and are trying to determine who should target those groups. After the consolidation, the United States Attorney will know better which activities to target within the district, because he or she will know exactly what resources are available. For example, the infiltration of a local union by organized crime elements today could be the long-range focus of either a U.S. Attorney or a Strike Force office. Consolidation will encourage a U.S. Attorney to dedicate his or her own Strike Force unit as well as any Assistant U. S. Attorneys handling related cases.

It is essential to the effective investigation and prosecution of all these cases that the witnesses in the cases, the investigators and the cooperating government entities involved in these cases have a single prosecutor to whom to turn. One prosecutor should be responsible, and that prosecutor should be the United States Attorney -- the chief federal law enforcement officer in his or her district.

The proposed merger would enable the government to undertake a truly unified approach in the war against organized crime, unencumbered by artificial jurisdictional boundaries.

While the consolidation is planned, in part, to alleviate the problems of the past, equally important, it will also give the Department's organized crime program the flexibility needed to pursue newly-emerging organized crime groups and to respond to changes in traditional organized crime elements. It is this look to the future of organized crime that particularly convinces me that the consolidation of the Strike Forces with the United States Attorneys' Offices is a necessary and desirable course.

The emergence of newer criminal groups, such as the Colombian drug cartels, Asian organized crime groups, the Jamaican posses, Los Angeles street gangs and others, poses new threats in certain areas of the country, and while these threats differ little from those of traditional organized crime elements, they are not being addressed on a coordinated national basis. Strike Force Offices have been slow to pick up on these emerging groups, and yet those groups deserve the same intensive prosecutive effort that the Strike Forces have given to the traditional organized crime groups in the past.

If the U.S. Attorney is able to direct the assets of the Strike Force offices, he or she will be able to coordinate the overall law enforcement effort in the district against organized crime. This will avoid duplication of effort or, worse, mutual restraint in an area where aggressive prosecution is needed.

The model for this consolidation proposal is, in fact, the highly productive effort dealing with the drug problem being carried out by the thirteen Organized Crime Drug Enforcement Task Forces (OCDETF), each headed by United States Attorneys and coordinating the anti-drug efforts of numerous federal agencies as well as state and local efforts, a program described in

President Bush's National Drug Control Strategy this week as "a model in interagency coordination." It is significant, I believe, that this model has been utilized to attack our number one crime problem -- drugs -- rather than the independent and separate "strike force" model.

A second benefit to consolidating the Strike Forces with the United States Attorneys' Offices is that the local influences of the United States Attorney as chief federal law enforcement officer can be used to forge more effective alliances with local district attorneys, state attorneys general, and other state and local law enforcement agencies combating organized crime.

The Organized Crime Council

The plan for consolidation also provides for the creation of an Organized Crime Council, which will receive and coordinate the various plans submitted by the U.S. Attorneys in order to formulate and monitor a true national strategy in the war on organized crime. As chair of the Council, I can assure you this oversight function will be active and effective.

In addition to providing policy guidance and national coordination in the war on organized crime, the Council will monitor the programs instituted by each of the Strike Force units. Personnel changes within those units will be made by the United States Attorneys only with the concurrence of the head of the Criminal Division and will be reported to the Council, so that any attempted dissipation of Strike Force resources would be quickly evident to the Department and the Council.

The Organized Crime And Racketeering Section

Here in Washington, we will also increase the size of the OCRS to provide a cadre of experienced prosecutors to try cases wherever necessary. The main purpose of this strategic reserve of attorneys will be to restore the original mobile, "hit and run" nature of the Strike Forces as created in the 60s before they became permanently established as alternate prosecutive units. The availability of these resources will guarantee that cases that should be investigated and prosecuted are investigated and prosecuted anywhere in the country. In addition, this group of prosecutors will be available for use at the direction of the Organized Crime Council to target emerging groups engaged in organized crime.

The OCRS will also continue to perform two important present functions: reviewing case initiation and prosecution decisions and providing expert prosecutors to try cases as needed.

The Review Process

When organized crime cases are initiated, and when the decision to prosecute is made, the Strike Force Unit in the United States Attorney's Office will be required to obtain the approval of the Organized Crime and Racketeering Section. This review and approval process is designed to insure that prosecutions will continue to meet the standards for organized crime cases. The concern that I have heard expressed by some in Congress -- that the unit will be flooded by the routine work of the United States Attorney's Office -- will be insured against by this review process. Moreover, with this approval process, the Section will be better able to implement the national organized crime priorities established by the Organized Crime Council.

This review and approval process is a very workable option. The Criminal Division already exercises such review and approval with respect to several other types of prosecutions; the OCRS must approve the use of RICO in criminal cases; the Internal Security Section must approve espionage charges; and the Public Integrity Section must approve Hobbs Act prosecutions.

Forfeitures

Developments in the law since the early days of the Strike Forces have made the proposed consolidation even more compelling. As the 1986 Presidential Commission on Organized Crime noted, an important component in the fight against organized crime is the use of the civil forfeiture provisions under RICO. The Congress has appropriated money in the last few years to beef up the forfeiture program. Through that forfeiture program, the government has been enabled, finally, to get at the assets of criminal organizations, and to actually strip them of the fruits of their illegal labor. United States Attorneys' Offices have developed considerable experience in the area of civil forfeitures, and can use that expertise to attack the same organizations that the Strike Force units prosecute. Locating both those units, the Forfeiture unit and the Strike Force unit, within a single United States Attorney's Office will obviously enhance their coordination and makes undeniable good sense.

Continuity In Strike Force Offices

I expect individual Strike Force attorneys assigned to the new Strike Force Units to remain there for many years, providing the continuity and experience that have been two of the traditional arguments in favor of separate Strike Force offices. I believe that the creation of such units would be useful, moreover, to counteract the "burn-out" that attorneys sometimes feel in U.S. Attorneys' offices, and would permit attorneys to transfer into or out of Strike Force units without severing the professional ties they have developed. Further, the higher pay scale in United States Attorneys' offices will eliminate the situation we now face where Strike Force Attorneys can be lured to a United States Attorney's office with the promise of higher pay for comparable work, although both offices remain undercompensated in today's legal market.

Because personnel changes in the units will necessarily be reported back to the Organized Crime Council there will be an institutional check to determine if personnel changes are serving to dissipate experience accrued in Strike Force Offices. It is my belief that the experience level will not diminish in the proposed consolidation.

Let me describe a case in point. Jeremiah O'Sullivan, who is scheduled to testify today, recently left the Boston Strike Force. One of the most experienced attorneys in the Strike Force was Diane Kottmyer, and she applied to succeed him. Wayne Budd, the United States Attorney in Boston, knew her and believed that she would be a fit replacement and would be someone he could work with easily, and therefore recommended her. That recommendation was endorsed by the OCRS and was approved by the Assistant Attorney General for the Criminal Division and she is in place today. That is the way it should have worked five years ago; that is the way it works today; that is the way it will work five years from now under the consolidation plan.

Cost Efficiencies

Another benefit to consolidation relates to certain efficiencies that would be realized from economies of scale and from a termination of duplicative efforts. There will be no need, for example, to have two law libraries or two telephone systems. In most cases, a United States Attorney's Office and a Strike force unit would be able to share a single minicomputer in Project Eagle, the Department's data processing and word processing system, rather than requiring one for each office. Each of those minicomputers costs thousands of dollars. Other economies of scale can result from merging other administrative functions. In an era of scarce resources and budget cutting, this could be a significant benefit.

The FBI Response to the Plan

FBI offices who have dealt with Strike Force offices have been canvassed about the proposed consolidation. The majority of the offices favored the consolidation. Those who did not endorse the consolidation based their reservations on their desire that a single purpose prosecutive unit be maintained to combat organized crime. That concern derives, I believe, from misleading reports about this proposal. The FBI offices do not want to see the single purpose unit disappear, and neither do I. Once it is made clear that the continuity of the Strike Force mission is the first priority of the Strike Force units, I have no doubt that those FBI offices that have thus far expressed some concern will embrace the consolidation as a fit substitute for a confusing and inefficient dual prosecution system.

I would like to point out that I agree with some of the points made by the FBI offices. In fact, they describe many of the problems that the consolidation is intended to eliminate. Specifically, it is clear that the effectiveness of the Strike

Force office has often been dependent on the ability to blend the personality of the Strike Force Chief and the United States Attorney. The consolidation will eliminate that need and relieve that situation.

Other Concerns

Since I first raised the possibility of a merger last winter, a number of mistaken charges have been made, most notably that the consolidation represents a dissipation of the effort against the traditional elements of organized crime. As I reported above, the reverse is true.

Others have said Strike Force attorneys, as career prosecutors, serve longer than the average Assistant United States Attorney. The statistics simply do not bear that out. Good, experienced prosecutors exist in abundance within both groups.

Some critics have even suggested that U.S. Attorneys will not be interested in long term work on complex organized crime cases. As members of this committee well know, this is a wholly unfair and unjustified charge. Each of you know many of our U.S. Attorneys personally and many of you have cooperated in the selection of these presidentially-appointed prosecutors -- prosecutors who are proving their ability daily to handle complex securities, tax, fraud and corruption cases, as well as their share of organized crime cases.

Put simply, this proposal to consolidate the Strike Forces with the United States Attorneys' Offices will enhance, rather than diminish, our continued strong, high priority effort against organized crime. It is time to get on with this fight, and not waste further time on continued arguments based on assertions such as those mentioned above.

It is time to add the 93 United States Attorneys offices to a new coordinated and revitalized effort against organized crime across this nation.

Cochairman NUNN. Our first panel of witnesses consists of Philip B. Heymann, professor, Harvard Law School, and former Assistant Attorney General of the Criminal Division, Department of Justice; Eugene H. Methvin, senior editor, Reader's Digest, and former member of the President's Commission on Organized Crime; Kurt Muellenberg, managing director, Kroll Associates, and former Chief of the Organized Crime and Racketeering Section, Department of Justice; and Peter F. Vaira, an attorney with Fox, Rothschild, O'Brien & Frankel, and former U.S. attorney for the Eastern District of Pennsylvania, and former strike force chief in Chicago and Philadelphia.

Gentlemen, in our subcommittee we normally swear everyone in, but we are not doing this, since it is a joint hearing today. But in any event, we are delighted to have you, each of you. You all have heard about our time dilemma, but you all have very important statements. You all have tremendous experience in this area and we are delighted to have you, so I hope you will be able to summarize, but we are not going to push you too much on time; we want to hear from you.

I guess unless there is a predesignated order, we will start with Mr. Heymann and work from left to right.

Senator KENNEDY. Mr. Chairman, I want to welcome the whole panel, and a special welcome for Professor Heymann. He has had a very distinguished career in the special prosecutor's office and also in the Justice Department, and continues to keep a very active interest in judicial affairs and we are glad to have him here as part of this panel.

Cochairman NUNN. Thank you, Senator Kennedy.

Mr. Heymann.

STATEMENT OF A PANEL CONSISTING OF PHILIP BENJAMIN HEYMANN, PROFESSOR, HARVARD LAW SCHOOL, AND FORMER ASSISTANT ATTORNEY GENERAL IN CHARGE OF THE CRIMINAL DIVISION, U.S. DEPARTMENT OF JUSTICE; EUGENE H. METHVIN, SENIOR EDITOR, READER'S DIGEST, AND FORMER MEMBER, PRESIDENT'S COMMISSION ON ORGANIZED CRIME; KURT W. MUELLENBERG, MANAGING DIRECTOR, KROLL ASSOCIATES, AND FORMER CHIEF, ORGANIZED CRIME AND RACKETEERING SECTION, U.S. DEPARTMENT OF JUSTICE; AND PETER F. VAIRA, ATTORNEY, FOX, ROTHSCHILD, O'BRIEN & FRANKEL, AND FORMER U.S. ATTORNEY, EASTERN DISTRICT OF PENNSYLVANIA, AND FORMER STRIKE FORCE CHIEF, CHICAGO, IL, AND PHILADELPHIA, PA

Mr. HEYMANN. Thank you very much, Senator Kennedy. I will summarize, Mr. Chairman, and try to keep within perhaps five minutes.

Cochairman NUNN. That will be fine; that is a good target.

Mr. HEYMANN. It is hard to figure out how to dig into the question before the committee today. The answer on its surface looks very easy. There remains a major problem of organized crime; the Attorney General doesn't question that. We have a highly successful structure operating, a structure that took decades to produce, and, significantly, one that would be very hard to recreate if it were taken apart in any significant way.

There are no promised savings in dollars, in costs. There is some talk about merging libraries. We have a proposal that may work, but may very well not work. Everyone experienced in the organized crime operation, everyone who has devoted years to organized crime, is opposed to it and says it won't work. And, again, as I have said, if it fails, it will be very hard to put the pieces back together again.

As you said, Mr. Chairman, we have something that certainly looks like it isn't broken, ain't broken, and that is addressing a remaining very serious problem and that is being fixed in drastic ways and which once, "fixed," may never be able to get back in its present shape. In my written statement, I said we are coming pretty close to disassembling a racing car with the very severe risk of producing an Edsel.

Then why do it? There is a set of soothing words right out of a management office somewhere that is given to the committee. This is a war against turf battles. There is a need for coordination. We have to have an end to bifurcation. We have to use all our fire power more efficiently. We have to bring an end to having two offices doing the same thing.

These are very abstract concepts to deal with a very concrete, difficult situation that has been worked out successfully in the field where the tire meets the road over two decades. Those are words that can apply to any part of the U.S. Government equally. Here, we happen to have a very successful operation and the words sound too distant to me, too abstract.

I would like to suggest that there are three specific questions that the committee has to address, and on two of them I have strong views; the third one seems to be the most difficult.

The first question is, is there evidence before the committee of real problems or is this a matter of management neatness? You don't disassemble a very successful operation for dealing with organized crime in the interest of management neatness. Are there real problems?

I haven't seen any evidence given by anecdote or otherwise of serious problems affecting the efficiency of the organized crime effort because of competition between the U.S. attorneys and the strike force chiefs. I have read all the testimony I had before this morning. I have not found an example. Where is there any evidence of any real problem, anything that could not be picked out of a management discussion in OMB of agricultural overlaps somewhere just as easily? I see no evidence of real problems. That is question No. 1, are there real problems. The Attorney General has suggested he is solving real problems.

No. 2, the Attorney General argues that what is good about the strike forces, what has emerged over the years, will be retained; what has made it work will continue to make it work.

Well, the first answer to that is there is nobody who has dedicated years to fighting organized crime, people who are now in private life, like my colleagues on this panel, who think that what is good is being retained. That is a caution, that is a worry. These people don't have a present stake in it.

In a very quick review, here is what has made this remarkable structure work with amazing success: a single focus in the leadership on a single problem. U.S. attorneys will address a dozen problems, individual, professional, political.

They didn't even respond, as you gentlemen have pointed out, to Attorney General Meese's request for a description of the organized crime problem in their areas. They have other things to do.

An esprit de corps in the lawyers that allows them to take salaries sometimes $10,000 less and have higher morale and longer tenure than other U.S. attorneys: They will, under the reorganized organization, just be one more office, along with securities fraud, public integrity, narcotics, and everything else. There will no longer be a special esprit de corps, which makes them work long hours in a very, very dedicated way.

A special working relation with the investigative agencies: In my last days as Assistant Attorney General, I was lead by the leaders of the Organized Crime Section—David Margolis, who is presently the section chief—to New York and told nothing is happening in New York. That long sequence of U.S. attorneys who have been so successful in prosecuting organized crime—I was told that nothing was happening and we had to go up and meet with them.

We met with people ~~in 1980,~~ and the attorneys there were demoralized and they said nothing was happening on organized crime. This meeting was brought about because there was the organized crime structure which we have. The failure was the failure of the U.S. attorney operation in New York.

I came back, discussed it with Director Webster of the FBI. Director Webster got to work on it. I have heard Tom Sheer say afterward that it was because of that meeting—I would like to think so, but perhaps in part because of that meeting—that they began a new effort. Director Webster certainly sent people over to brief me on what he was doing in response to what we had said about the failures of the New York operation.

Very great patience by line attorneys: Jerry O'Sullivan spent 6, 8 years on the *Angiulo* case. We are not going to see that in U.S. attorneys' offices. Eight years in the *Kansas City* case, and leaders who are prepared to throw 20 attorney-years into a single major investigation in spite of all the competing demands that a U.S. attorney has—that won't happen.

Special training and experience in undercover work, the use of informants, electronic surveillance, as well as familiarity with the RICO statutes; an institutional memory locally and nationally about organized crime groups; finally, an ability to work with other jurisdictions—you have the representatives here, so I won't talk about them.

But when I was Assistant Attorney General, we had Doug Roller doing Pendorf involving States from Illinois to Nevada. We had Eades Hogue doing BRILAB, from the District of Columbia to New Orleans to California. We had a Kansas City investigation in a half dozen States. These can't be coordinated by U.S. attorneys; they don't like working together. They are jealous of their jurisdictions; they won't work together. Those investigations will be difficult or impossible. If you take it step by step, I think it is very unlikely that the good will be retained.

And the final question—I have taken more time than I said I would—is, well, if this is foolish, and I think it is foolish, what do you do about the fact that the Attorney General wants to do it? There is a point that the Attorney General is entitled to some management control.

I don't have a suggestion there, except I think one that Senator Kennedy made. There have to be partial solutions. Why not dismantle the strike forces that are least pressing, where La Cosa Nostra has least hold now? Why not see how that works? Why all or nothing?

I have taken too much time and I appreciate your indulgence.

[The prepared statement of Mr. Heymann follows:]

STATEMENT

OF

PHILIP BENJAMIN HEYMANN
JAMES BARR AMES PROFESSOR OF LAW
HARVARD LAW SCHOOL

BEFORE

THE COMMITTEE ON THE JUDICIARY

AND

THE COMMITTEE ON GOVERNMENTAL AFFAIRS

UNITED STATES SENATE

CONCERNING

A PROPOSED MERGER OF THE ORGANIZED CRIME STRIKE FORCES
INTO THE VARIOUS UNITED STATES ATTORNEY OFFICES

ON

FRIDAY, SEPTEMBER 8, 1989

Chairman Biden, Chairman Nunn, and Members of the Committees:

It is an honor to be able to address you on the question of the proposed merger of the Organized Crime Strike Forces into the U.S. Attorney Offices. I was the Assistant Attorney General in Charge of the Criminal Division of the Department of Justice from 1978 until 1981 and, from that vantage point, developed a considerable interest in and knowledge of the organized crime program. I have spent many years working in the federal government. I have also taught about federal law enforcement and, in particular, the organized crime effort at Harvard Law School. I should, finally, mention two other relationships. My son is presently a member of the Strike Force in Boston. I have been friends with the Attorney General since school days in Pittsburgh, although I disagree strongly with his proposal. Let me begin.

A. There are two reasons for the federal government's major commitment to fighting organized crime. I do not understand the Attorney General to be arguing that the force of either of these reasons has suddenly diminished. Until the Attorney General concludes that the major federal commitment against organized crime is no longer necessary, and can defend that conclusion factually, I think it is folly to change the uniquely successful structure of our federal effort over the past twenty years.

The two reasons for the government's major commitment are these.

(1) The commitment began, and continues to be, the federal government's way of dealing with a particularly long-lasting, nationwide, and dangerous organized crime group: the LCN. As a result of a decade of preparations and a decade of trials one generation of LCN leadership has been largely imprisoned. But most organized crime prosecutors believe that there is another generation waiting to take its place and that the battle will only be over when this generation has been dealt with.

(2) The second reason for the major commitment to fighting organized crime is that there exist organized crime groups, such as the Asian groups in New York, Boston, Los Angeles, San Francisco and elsewhere, that now demand the special attention that the LCN has had for the past two decades. The new groups may be built on the great fortunes to be made in narcotics. Or perhaps they will follow and exploit the new immigrant waves our country is welcoming. In either event, if they combine the powers of intimidation and corruption with the skills to exploit illegal markets or labor-management relations, they will pose much the same problem that we have faced with the LCN.

Organized criminal groups operate in a manner that frequently allows them to remain secret for a very long time unless there is a determined effort to find them. J. Edgar Hoover denied the existence of the LCN for many years. No serious investigations and prosecutions took place in New York City for years after the dissolution of the New York Strike Force and its merger into the U.S. Attorney's Office. The leaders of the Organized Crime Section called this to my attention in the course of a NOCPIC meeting. I talked to Director Webster about it in late 1980, getting the process started which ended, years later, in the very notable prosecutions of the mid-1980's.

B. I said that no one seems to doubt that these reasons still demand a federal commitment to fighting organized crime of about the size of the present effort. That then takes us to the second question: for the resources committed, can the United States do better by changing the organizational structure?

The present organizational structure is unique in a number of ways, almost all of which would be changed by the Attorney General's proposal.

-- A single focus.

-- An esprit de corps (salaries are less but morale is higher and tenure is longer).

- -- A very special working relationship with the investigative agencies based on the career status of the prosecutors and the deep involvement of the prosecutors for long periods of time in the investigative process.
- -- Very great patience by the line attorneys staying with the investigation for very long periods of time. (Eight years in the Kansas City investigation and six years in the Boston investigation are not unusual.)
- -- Leaders who do not need headlines and need not respond to rapidly shifting public demands. (Twenty to thirty years of attorneys' time has been invested in a number of the most major organized crime cases.)
- -- Special training and experience in undercover work, the use of informants, and electronic surveillance as well as familiarity with the RICO and other statutes.
- -- An institutional memory both on a local basis and nationally that allows an effective monitoring of changing organized crime patterns.
- -- An ability to work closely with other jurisdictions and locations.

The last is particularly important. During my tenure the Organized Crime Strike Forces were working on the Longshoremen's investigation which ran from Miami to New York (where it provided the first leads, I believe, to the U.S. Attorney); the BRILAB investigation running from Louisiana to the District of Columbia and California; PENDORF, involving states from Illinois to Nevada; and the Kansas City investigation involving four or five states. Even if one were to assume that every U.S. Attorney has a strong concern about organized crime -- and some do not -- it would be practically impossible to develop an effective system of coordination among the dozens of jurisdictions involved in these four or five major investigations. The U.S. Attorneys are jealous of their jurisdictions, want publicity, and certainly do not want it to appear that some other U.S. Attorney is working on investigations or cases in their area.

Perhaps above all what has characterized the present structure is its special way of proceeding: the use of lawyers and investigators in a nationwide team effort that has often spanned years and has expended dozens of total work-years pursuing a single organization. What has been required is a special balance of scrupulous legality (for otherwise it would be unfair to target particular organizations) and the determined purpose, energy, and imagination it takes to succeed.

The answer to the question whether this approach should now be changed, without any substantial savings in committed resources, seems so obviously to be "no" that I wonder what is really going on. This is a remarkably effective operation, and these are rare in the federal government or in any government. Teaching at the Kennedy School at Harvard, I once tried to make a list of obvious federal successes at solving some serious national problem. It wasn't easy, but this would be one.

The unique structure is not only "not broken", but it is working with remarkable success -- or at least was until the threat of extinction began to erode the operation. It is as close as the federal law enforcement effort has come to creating a finely tuned racing car. And the proposal is to take it apart and use the pieces to rebuild, still again, an Edsel.

The new design is a familiar one. Shortly before I became Assistant Attorney General in 1978 the Department created special narcotics units in selected U.S. Attorney Offices with loose ties to a Washington headquarters and supporting lawyers in a section in Washington. It was an Edsel, soon to be swallowed or at best benignly ignored by most of the U.S. Attorneys assigned these new positions.

I was persuaded -- don't ask me how -- to adopt the same model with various modifications to create a "new and more vigorous" attack on white-collar crime and corruption. With some exceptions, this reborn Edsel hardly puttered out of the garage.

The Attorney General's proposal has all the characteristics of the two Edsels that preceded it in what has become a formula for increasing the discretionary resources of U.S. Attorneys and failing to direct federal resources to particular needs identified as requiring a national program.

C. So what recommends re-creating the Edsel? It seems to be an argument about problems of cooperation with the U.S. Attorneys. Let me address that in two ways. One question is whether there have been many problems that have affected investigations or trials harmfully. I do not believe that is so. It was not a problem during my tenure. The Congress has received letters from others saying that it has not been a serious problem in their operations from the East coast to the West, from Miami to Boston. Few if any notable examples have been provided by the Department of Justice. The case is simply not made.

What is undoubtedly true is that the U.S. Attorneys do not like feeling that there is any law enforcement presence in their areas which is not directly and completely subordinate to their control. A strong U.S. Attorney worries less about this, for ultimately he knows that he is very securely in control. But the average U.S. Attorney does not like competition. Pride is at stake, not pride in achievement but pride in having a monopoly of power.

That this is a very bad reason for abolishing an important and successful operation is obvious on its face. Local District Attorneys do not like having U.S. Attorneys try corruption cases in their districts. In fact they hate it. But U.S. Attorneys respond that the competition is healthy and that a monopoly of local powers here would not serve the public good. The same is true with the organized crime operation, even though every effort has been taken to prevent true competition.

There are important reasons for having a nation-wide operation against organized crime, and those reasons vastly outweigh a desire to make U.S. Attorneys feel more comfortable. Occasionally there is even a reason to have a separate force available, when a U.S. Attorney is unable or unwilling to take on important prosecutions. When Federal Judge Wood was murdered, the U.S. Attorney was not making headway on the investigation. The importance of the case justified bringing in highly talented career prosecutors from the Organized Crime Section. Working far more closely with the FBI in a highly imaginative and intensive effort, Michael Defeo and others were able to bring the investigation to a successful conclusion and prosecution before Judge Sessions. I could not have brought in the U.S. Attorney from another district. U.S. Attorneys have limited jurisdictions and severe rivalries when involved in the same case. The job could only be done by the Organized Crime Section.

D. In sum, the present structure of the federal organized crime prosecutors is working exceptionally well. It should not be taken apart unless and until the problems it was created to address have substantially diminished and no one is presently making that case. If what has been working as a racing car were to be taken apart, it should not be reconstructed as an Edsel. There is no reason to expect something very much like what has failed twice in recent years to succeed the third time. Finally, there is no real problem, other than the pride of U.S. Attorneys, that is being addressed by the change.

Let me conclude by reviewing in some detail why the Attorney General's plan is unlikely to work.

All the special characteristics of the Strike Forces are likely to be lost with the proposal set forth by the Attorney General. His argument is that you can simply take the whole Strike Force operation and put it into a U.S. Attorney's Office without having it dissolve or change its characteristics. But for that to work we would have to change the laws of nature.

Under the Department proposal the boss of the organized crime effort, the U.S. Attorney, would no longer have a single focus but would have many responsibilities and political as well as professional ambitions. The very definition of organized crime would lose focus, let alone national coherence; every U.S. Attorney would have his own definition in practice, if not in theory. Individual Strike Forces under U.S. Attorneys would no longer have direct relations with other investigations in other jurisdictions, or at least not on nearly the same scale and with nearly the same ease. The special esprit de corps would disappear or, at best, depend on unusual efforts by the particular U.S. Attorney. The relation with investigative agencies would come to be the same as that of the other units in the U.S. Attorney's office, generally good but not nearly so close as that presently associated with the Strike Forces. There is likely to be a flow into and out of the unit from other units of the office -- something that has happened with the recent OCIDEF program for narcotics. With that there will be a cost in tradition, training, and institutional memory.

Finally, perhaps most important, there will be a loss of the remarkable patience that has characterized the effort. Most attorneys in the U.S. Attorney offices want to try cases and then move on to other things. They do not want to spend six or eight years on a single case. A U.S. Attorney will not want to commit ten, fifteen, or twenty person-years to a case that will only mature long after his departure.

E. Whatever the powers of the Congress and the Attorney General, if the Strike Forces are to survive it is crucial that everyone come to accept that resolution. The worst possible outcome would be one forced by the Congress on an unwilling Department. There must be a compromise.

The Department of Justice must provide support in a hundred different tangible and intangible ways if this unique organization is not only to survive but is to succeed brilliantly, as it has in the past. The tide of resignations of senior prosecutors from Strike Force Offices around the country engendered by the merger proposal, such as the resignation of close to half of the Brooklyn Strike Force, foretells the unhappy result of the Department of Justice making clear to prosecutors that work in the Organized Crime Strike Force is no longer respected and honored.

In the final analysis there can be no winners and no losers on this issue. The maintenance of a very valuable institution depends upon compromise grounded in the good will and good sense of the Senate, the House, and the Attorney General.

Cochairman NUNN. Thank you very much, Mr. Heymann, for your very crisp and concise testimony. We appreciate it.

Mr. Methvin, we appreciate your being here today. I think more than anybody I know, you have written and studied and followed this whole area for some 20, 25 years, and we are appreciative of your views, so we welcome your comments.

STATEMENT OF EUGENE H. METHVIN, SENIOR EDITOR, READER'S DIGEST, AND FORMER MEMBER, PRESIDENT'S COMMISSION ON ORGANIZED CRIME

Mr. METHVIN. Senator, thanks for the invitation. I will try to give you the Reader's Digest condensed version.

It was Winston Churchill, whose mother was an American, who said the American people can always be trusted to do the right thing—after they have tried everything else. We started out with the Kefauver Senate investigations in the 1950's. We bumbled around for about 15 years, then we came up with the strike forces. Now, it looks like we are about to do the wrong thing again and fold them into the U.S. attorney's office.

Mr. Heymann here has discussed the New York City example, which the Attorney General holds out as proof positive that the U.S. attorneys can do the job. In fact, it shows quite the opposite.

The Attorney General says he has had no problems with the U.S. attorneys, but I would point out that that GAO report which found that the meetings that had been ordered monthly by U.S. attorneys hadn't been held—the span of time in which those meetings hadn't been held included the first 5 months of Attorney General Thornburgh's presence in the Justice Department.

Senator Glenn and I both share one thing in common; we are old military pilots. We know that a little redundancy in vital systems is important. The prosecution of corruption and organized crime is a vital system. We know from experience that we can encounter problems at all levels of Government.

It was that great organized crime prosecutor, Henry Petersen, who, using the organized crime techniques, broke the Watergate case. We have had Senate committee chairmen go to prison. We have had at all levels of Government problems with corruption. We have problems with political influence by otherwise legitimate political bodies, trade unions, for example, at all levels. We have had presidents of the Teamsters entertained at the White House and later indicted and convicted. Stan Parry's statement to this committee points out the problems in Las Vegas. I commend that to your attention.

A fourth point: I would like to commend you, Mr. Chairman, for your efforts to get into the 1988 Anti-Drug Abuse Act an appropriation for civil attorneys in the organized crime effort. The GAO finds that 13 were allocated to the strike forces; none were aboard as of last February. I hope both these committees will continue to exercise oversight to see that we do get a civil unit in our organized crime structure, whatever that may be.

Finally, a fifth point: There is one provision of the 1970 act that is very important and it has never been used; that is, the provision for special grand jury reporting provisions. Envisioned by that provision was a kind of a permanent subcommittee on investigations in each of the major metropolitan areas where there are organized crime problems, a grand jury which could take sworn testimony and deliver reports on conditions there based on a preponderance of evidence, which might be below that evidence which you can use to bring a prosecution.

Finally, we have heard the Attorney General talk about the immense problem of getting a coordination of Federal effort. That is an old problem. As Mr. Heymann says here, you will find the same problem in the Department of Agriculture, or you will find it throughout the national security apparatus. You find it in the Defense Department—your rivalries, your interservice rivalries, and so on.

The President's Commission on Organized Crime fails to study, as assigned by the President, the Federal effort and make recommendations. That was one of my big beefs with the Commission. Attorney General Thornburgh's proposal has provoked that kind of examination, and that is all good.

I would just like to wind up with a story about the grandma who went to the toy store and asked for a toy for her 8-year-old grandson; she wanted something educational. The clerk brought her a complex kit, and she said, do you think he will be able to put this together? And the clerk said, well, ma'am, you wanted something educational; this is designed to teach him to cope with the modern world. However he puts it together, it won't work.

However we get our organization structured, it won't work unless we have leadership at the top level and continuing oversight by this Congress. The Permanent Subcommittee on Investigations tried to get into and referee and understand the rivalry between the Labor Department and the Justice Department. Mr. Chairman, you sat through that and you know what a problem that has been.

Robert Magee, the acting inspector general of the Labor Department, said something that was important based on his 33 years of experience as military and civilian manager of criminal investigations. He said it has got to come from the top; the boss at the top has got to give the order.

Now, the General Accounting Office notes in its 1977 report that it recommended the Attorney General seeking a Presidential order requiring other agencies to cooperate and to commit resources if the Attorney General didn't get it. We have never had such an order.

The strike force idea of orchestration of all Federal agencies and investigative bodies has never been realized. We came the closest, probably, in New York City with the joint strike force before 1976 when it was abolished. If we can use this occasion to keep the interest by the Congress, to force an across-the-board reexamination of things, then I think we will make some progress, however we go.

[The prepared statement of Mr. Methvin follows:]

STATEMENT OF

EUGENE H. METHVIN

before the
COMMITTEE ON THE JUDICIARY
and
COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

* * *

Friday, September 8, 1989
9 a.m.
106 Dirksen Senate Office Building

I am here at the invitation of Senators Nunn and Biden to offer my perspective as an independent journalistic observer of the war on organized crime. I have reported from Washington on the criminal justice system for more than thirty years, and in 1983-86 served as a member of the President's Commission on Organized Crime. I am employed as a senior editor in the Washington editorial office of the Reader's Digest.

The "big story" at the time of my arrival in Washington in 1958 was the sensational hearings on labor-management racketeering chaired by the great former chairman of this committee, Sen. John L. McClellan. Few recall that the first two witnesses before that committee were two newspaper reporters from the Portland Oregonian who had exposed the corrupt activites of Teamster President David Beck. From that time I have watched the federal government's efforts to combat organized crime and particularly the criminal syndicate known as La Cosa Nostra or the Mafia.

Winston Churchill, whose mother was an American, once said, "The American people can be trusted to do the right thing -- after they have tried everything else."

Uncle Sam stumbled and bumbled for fifteen years trying to get organized after the the Kefauver committee investigations in 1950 exposed the existence of the national crime syndicate. Beginning in 1966 he finally did the right thing: he created a system of strike forces, which were supposed to embrace investigators from all federal agencies and to orchestrate all federal law enforcement resources into a combined attack.

The strike forces never lived up to the original theory and promise. (See Page 18, April 1989 GAO report to this committee.) For this reason I have often criticized the Strike Forces. But they have proved to be far more successful than anything else we've tried. And in the last decade, with a lot of outside prodding from critics of whom I have been one, and with some innovative leadership by the FBI, the strike forces have come closer than ever to living up to their promise. And now it looks as if the Justice Department is about to go Churchill one better. After doing the right thing for twenty years, it is about to undo it and destroy a precious, painstakingly developed national asset.

If we could be assured that Attorney General Thornburgh would be attorney general forever, I would probably not object to the changes he proposes. He is an energetic and dynamic leader, and ever since he was U.S. Attorney in Pittsburgh he has loved racket-busting. We've been friends since those days, and it pains me to be on opposite side of this issue. But friendship requires that one yell when he sees a friend running off a cliff.

We've had ten attorneys general, six presidents, and heaven knows how many assistant attorneys general in the Criminal Division, since the strike forces were started. During that time presidents from both parties have played political footsie with known LCN figures, ranging from Jimmy Hoffa and Roy Williams to Mafia capo Tony Scotto. I refer specifically to Presidents Johnson, Nixon, Carter, and Reagan. Demoralizing though it must be to troops in the trenches to see the Commander-in-Chief consorting with the enemy, the Strike Force attorneys, career officials relatively insulated from political influence, have kept firing.

Developing this corps of veterans is one of the great achievements of the Strike Force system. They have a tremendous elan and dedication, and they have piled high convictions. They reached the point where the Reagan Administration finally went to court with a civil RICO suit and in the face of the mountainous evidentiary record the nation's largest union, the Teamsters, yielded to federal court oversight. Now, 31 years after I first sat in on those Senate labor-management racketeering hearings, we may have a realistic hope that the Teamsters will be "free at last." That situation is largely a Strike Force accomplishment.

Yet we are now on the verge of destroying the corps of dedicated prosecutors who, with the FBI and Labor Department Office of Labor Racketeering agents, piled high the evidence that made it possible. As the testimony of former Brooklyn Strike Force Chief Ed McDonald points out, Attorney General Thornburgh's announced intention to "merge" the strike forces has already produced devastating resignations there, and no doubt throughout the strike force structure. We are losing gung-ho, committed gangbusters who have stayed at their lower-paying posts and put in grueling hours when they can earn far more outside government.

Consider the Philadelphia strike force team that won racketeering convictions against Mafia Boss Nicodemo Scarfo and 16 associates last year. Four of the five prosecutors have more than 15 years experience. Strike Force Chief Joel M. Friedman took that job back in 1973. He has served in the post under four presidents and during that time Philadelphia has had five U.S. attorneys. Ditto Boston, where the strike force chief who nailed New England Mafia Boss Gerardo Angiulo and his entire gang leadership served for 16 years; five prosecutors labored fulltime on the case six years after the investigation was complete and the incriminating conversations recorded on FBI tapes.

Putting the Strike Force troops under the U.S. Attorneys will subject them more directly and intensely to the kind of political pressures that persuaded President Johnson to be photographed with Mafia capo Tony Scotto and President Carter to lunch with him, and persuaded President Reagan to entertain Teamster bosses Roy Williams and Jackie Presser at the White House, despite irrefutable FBI intelligence that they were "mobbed up."

What makes anyone think the U.S. Attorneys, who are political animals or they would not be in their jobs, will be more immune to these pressures? (I hope the committee will study Stan Parry's statement on these pressures in Las Vegas.)

What makes Attorney General Thornburgh believe he can get U.S. Attorneys, whom he cannot fire, to give sustained priority to the war on organized crime? The April 1989 General Accounting Office study done for Chairman Nunn of the Permanent Subcommittee on Investigations notes that in January 1988 the Attorney General (then Ed Meese) ordered U.S. Attorneys in Strike Force headquarters cities to file plans for combatting organized crime within 90 days. Yet one year later, last January, the GAO found that fewer than half the subject U.S. Attorneys had done so. (Page 25, typescript version.) When the Attorney General gives the U.S. Attorneys an order to develop a plan to attack organized crime in 90 days and more than half of them do not do it, how can we consider turning the whole job over to them?

Moreover, the GAO notes (Page 19) that the Attorney General in January 1988 ordered Strike Force executive committees headed by the U.S. Attorneys to meet at least monthly to review federal efforts, and improve communications among federal agencies. In not one of the eight Strike Force cities studied by the GAO had the U.S. Attorneys convened these executive committees as required by the Attorney General. If the U.S. Attorneys can do the job, why haven't they done the job they have been assigned already?

By the lights of my three decades in Washington observing the behavior of Boobus Americanus Bureaucraticus, this seems to me proof positive that fighting organized crime is not high on the list of priorities of U.S. Attorneys in most of the cities with the worst problems. If they are given command of Strike Force attorneys, in a year's time we will find those attorneys off on other business. Assuring stability of effort and resources and personnel was one of the major reasons for the creation of the Strike Forces in the first place.

In fact, the demonstrated disinterest of U.S. Attorneys in discharging the Attorney General's instructions on chairing regular Strike Force executive committee meetings and developing coordinated plans leads to another harsh question. What will be the result of the Attorney General's January 1988 order giving U.S. Attorneys the power of doing the performance evaluations of Strike Force chiefs? (GAO Report, Page 24.) This may be a source of grave mischief in the future, and this committee should keep a close watch on the situation.

It is a high tribute to the value of the Strike Forces that the GAO notes (Page 19) that, despite the widespread dereliction by U.S. Attorneys, the Strike Forces have achieved some coordination of federal efforts, with attorneys mediating among investigative agencies and wooing them generally on a case-by-case basis. This is some progress toward fulfilling the original design.

I also find a heartening counterargument in another set of GAO findings which some might consider an argument for the Attorney General's plan. This is that there have been "turf battles" between U.S. Attorneys and Strike Force chiefs, that the Strike Forces in some cases amount to competing prosecutorial offices, and that investigative agencies do periodic "prosecutor shopping." (Pages 18 and 21.) Competition among prosecutors? Prosecutor shopping by investigative agencies? Wonderful! That, too, is one of the great accomplishments of the Strike Forces. A little competition among bureaucracies may serve the taxpayers well. The inefficiency inherent in duplicated effort may create a much larger efficiency if the competition creates an alternative to a lethargic bureaucray. Here again, the Strike Forces have worked well.

The GAO again makes the criticism that the Justice Department has not developed measures to assess the effectiveness of Strike Forces. (Page 17.) This is the same song, third verse, repeating GAO criticisms of 1977 and 1981. To evaluation researchers, this is a natural demand. But it is also something like chasing the Golden Fleece. I do not know how you measure the effectiveness of an attack on an organization designed to be invisible, in which, as Sicilian Mafia member Tomasso Buscetta testified, "Nothing is written down." The Syndicate has no membership lists, account books, or usual organizational documentation. There are only three sources of information about it: electronics eavesdrops, secret informants, and defectors. There is no substitute for the evaluation of an experienced intelligence analyst. The GAO keeps asking for effectiveness measures; I wish their experts would show us all how to do it.

The President's Commission on Organized Crime spent a bunch of money with the Wharton School to try to measure the economic dimensions of organized crime and all we got was a report that said, essentially, THIS IS A BIG PROBLEM. It is, and I hope the GAO will keep prodding and this committee and the Attorney General will develop a program to tackle it.

Incidentally, the GAO report says in two places that a presidential commission has recommended merging Strike Forces into U.S. Attorneys offices. (Pages 3 and 26.) I believe this statement is in error. Certainly if it refers to the 1983-86 President's Commission on Organized Crime, it is flat wrong; and I do not know of any other such presidential commission recommendation.

It is important to understand why the Strike Forces failed to fulfill the original Buffalo design and concept of functioning as a central orchestrating device for all federal enforcement activity in the war on organized crime. The Strike Forces were largely the brainchild of Henry Peterson, a career racketbuster in the Criminal Division. He succeeded Will Wilson as Assistant Attorney General about 1970. That was the same year Congress passed the omnibus Organized Crime Control Act providing limited testimonial immunity, creating the Witness Program, prescribing enhanced sentencing for dangerous special offenders, and establishing civil and criminal RICO statutes. That landmark law was a product of a driving bipartisan coalition embracing President Nixon, Attorney General John Mitchell, and Senators McClellan, Ervin, Thurmond and Hruska. For a brief time, with John Mitchell and Henry Peterson calling the signals and clearly ready to crack some bureaucratic skulls, it looked as though the Strike Force concept would be executed properly and vigorously. Then in 1972 Mitchell resigned to head the Committee to Re-Elect the President. And the rest, as they say, is history. Peterson, as Uncle Sam's top prosecutor, was increasingly pulled into the Watergate investigation. He broke wide open using the standard anti-racketeering strategy of squeezing the little fish to make them cough up the big fish. The famous McCord letter of March 1973 as right out of the old prosecutor's playbook. It is also ironic that the 1970 act's limited testimonial immunity provision was what enabled the Ervin Watergate Committee to compel John Dean to testify--directly leading to John Mitchell's conviction and imprisonment. We had the infamous "Saturday Night Massacre" at the Justice Department, and for a time virtually the whole federal government was dead in the water. That certainly included the Strike Forces, and any hope of Justice Department leadership in any orchestration of all federal agencies.

Then came the Ford Administration, and that brought Richard Thornburgh to the Justice Department as boss of all the Strike Forces. As U.S. Attorney in Pittsburgh, Thornburgh had opposed the Strike Force concept almost from the start; he had some celebrated clashes with a Strike Force chief there, and Thornburgh had some valid complaints about his colleague's free-wheeling and up-staging. Thornburgh had been trying since 1974, when he chaired a subcommittee of the U.S. Attorneys' Advisory Committee to the Attorney General, to do what he now proposes: to fold the Strike Forces into the U.S. Attorneys' offices. Thus he was hardly the man to give the Strike Forces the kind of driving leadership needed to fulfill the original design. Quite the opposite. In 1976, as Assistant Attorney General in charge of the Criminal Division, he did shut down the Strike Forces in New York, St. Louis, Pittsburgh and New Orleans. Today he cites the successes of the U.S. Attorney's Office in Manhattan, notably in the Mafia Commission convictions in 1987, as proof that his plan will work everywhere. In fact the New York experience proves just the opposite. While he was away from the federal enforcement scene as Governor of Pennsylvania, the war on organized crime in New York ground to a halt--a stalemate, at best.

Before Thornburgh abolished it, the New York Joint Strike Force under Dan Hollman was a unique bureaucratic achievement. It came the closest of any of the Strike Forces to fulfilling the original design. It combined not only investigators from the many federal law enforcement agencies but also state and New York City police experts. They worked elbow to elbow in the Javits federal office building on Foley Square, trading information, sharing plans, each able to call on the unique expertise resources of his parent agency. They were just gaining momentum when Thornburgh's ax fell. We got the same assurances as today that the U.S. Attorney for the Southern District of New York would give high priority and would effectively oversee the war on the Mob.

In fact what we got was disaster, from which the war effort was more than a decade recovering. The truth was told, albeit diplomatically, by former Assistant FBI Director Thomas Sheer in his testimony before this Committee on April 21, 1988[1]. Sheer was in charge of the Bureau's New York field office, its largest, in 1979 when his management team conducted an assessment of the anti-organized crime effort. The conclusion: "Our efforts were not successful in really attacking the families in a meaningful way. There was no overall plan or any grand strategy to commit ourselves to." The G-Men had to admit to themselves that the Mob was growing in numbers, wealth, and power. The FBI managers realized their efforts in effect were only enhancing the Mob's middle level management training and promotion system by removing a few of the tired older bosses and capos.

The end result was that the New York FBI had to re-invent the wheel that Thornburgh had destroyed back in 1976. Sheer's top OC supervisor, James Kossler, met with the nation's leading authority on federal wiretapping and anti-racketeering legislation, Notre Dame Professor G. Robert Blakey, and said, in effect, "What are we doing wrong? What should we be doing?" From these meetings the New York G-men devised the "enterprise strategy." The Bureau and U.S. Attorney had concentrated on short-term investigations and pressed them only to the point where enough evidence was in hand to indict a handful of mobsters and win some quick headlines. Under the new strategy, the G-men and Justice Department attorneys used initial intelligence successes to get additional judicial authorization for wiretaps and bugs aimed at the top mobsters in their inner sanctums of their ultimate criminal enterprise--the Mafia Commission. But, as Sheer testified, these long-term "project-type" investigations swallowed more manpower than his office had.

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[1] Hearings, "Organized Crime: 25 Years After Valachi," Page 179.

So Sheer simply re-instituted a form of the joint strike force, embracing state and city police as well. Even so, it took almost five years to make their cases. Ironically, back in 1976 just before the New York Joint Strike Force was destroyed, its leaders had commenced talks with Professor Blakey and probably would have come to the same strategy years ahead of the actual development. Thus, about ten years after Thornburgh originally abolished the New York strike force, U.S. Attorney Rudolph Giuliani was able to announce indictments of top Mob bosses and the entire Mafia Commission, all of whom were convicted and sentenced prison for just short of eternity.

The impetus came from the FBI, not the U.S. Attorney's Office, as Thornburgh's statements would have the public believe--albeit Giuliani was an eager supporter and whole-hearted collaborator after the effort got underway. And he got most of the headlines and plaudits, though neither he nor his subordinates ever hesitated to state that the FBI had originated the campaign. The Attorney General's current contention that the New York U.S. Attorney's successes support strike force abolition in fact demonstrates just the opposite.

At this point, I would like to offer for the hearing record a review of the history of federal efforts against organized crime, especially the Strike Force concept, by Professor G. Robert Blakey in a 1983 article in the Encyclopedia of Crime and Justice, Volume 3, pages 1107-1111. I also offer two Reader's Digest articles I authored: "Progress in the War Against Organized Crime, June 1972; and, "The Mob's Stranglehold on New York," November 1986.

And I offer for the hearing record my dissenting statement in the PCOC final report, THE IMPACT: Organized Crime Today, pages 205-217. As this record shows, I have made a lot of criticisms of the Justice Department and the Strike Forces, but always for the purpose of improving a bureaucratic innovation I admire, and I am appalled at the Attorney General's plan to abolish that structure.

The GAO (at Page 14) notes its 1977 report recommended that the Attorney General seek a presidential order requiring other agencies' cooperation and commitment if he did not receive it. The President's Commission on Organized Crime never did carry out the study of federal enforcement efforts that President Reagan tasked us to do. But the Attorney General never sought, and no president ever issued, such an order. We never realized the Strike Force ideal of an orchestration of all federal law enforcement agencies. The committee knows from Sen. Nunn's PSI probe of the conflict between the Justice Department and the Labor Department's Office of Labor Racketeering the great difficulty of harmonizing differing bureaucracies. One witness, Robert Magee, who spent 33 years in the military and civilian federal criminal investigation management, testified that the only way to suppress and compose bureaucratic rivalries is for the man on top to order it done and let his subordinates know new people will be in their places if they do not do it.2 When it comes to getting all elements of federal enforcement to function in a coherent strategic campaign, that order has to come from the President. Thanks in large measure to this committee's efforts we now have a "Drug Czar" to try to bring such coherence to the anti-drug war. We've never had such top level command to realize fully the original concept of the Strike Forces. We need it.

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2 Sen. Roth posed the question: how do we get cooperation implemented at the field level throughout the agencies? Robert Magee, former acting inspector general, DOL, responded: "It is going to come only from the very top level. Somebody says, 'This will be done, and anybody who isn't going to do it is going to be hurt professionally.' That seems very simplistic, but I can tell you that that was my only way of affecting things. Hearings, May 9, 1986, "Department of Justice's Handling of the Jackie Presser Ghost Workers Case," Page 46.

I hope this committee will continue close oversight, probing and prodding, until we get it.

There is one critical change that Thornburgh should make in the strike forces. A civil unit needs to be established in each one, with a central supervisory civil unit in Washington, to insure that every civil and regulatory weapon is used in the assault on organized crime. These weapons include not only civil suits under the Racketeer Influenced and Criminal Organizations (RICO) law, but also the NLRB, SEC, IRS, Labor Department Pension and Welfare Benefits Administration, and other federal regulatory bodies and state civil laws. One of the major Justice Department arguments for merging the Strike Forces into the U.S. Attorneys' offices is that each U.S. Attorney office has a civil section. Yet in the entire history of the war on organized crime the Justice Department has until very recently failed to use the civil weapons against the Syndicate. Under the Reagan Administration civil RICO suits were brought with striking success against the Fulton Fish Market, four Mob-dominated union locals, and the entire International Brotherhood of Teamsters. These successes began not with any U.S. Attorney, but with the Newark Strike Force chief, Robert Stewart, who was the first racket-buster to exploit the weapon Congress created for attacking racketeers entrenched in unions and legitimate businesses.

The St. Louis experience shows why. After the strike force there was abolished, the mobsters went wild. Gang war erupted over control of three Laborers International Union locals. After several spectacular bomb-murders created a great public furore, U.S. Attorney Thomas E. Dittmeier did a brilliant job of convicting the killers. But the mobsters still control the unions, three Laborers locals whose members are mostly black, poor, and desperately in need of honest union representation. In the criminal trials Dittmeier had already put far more than enough sworn testimony and FBI electronic surveillance evidence on record to persuade any judge to place the unions under a federal trusteeship. When I asked why he had not brought a civil RICO action to do so, Dittmeier paused, studied the ceiling a moment, and responded, "I guess I'd have to plead a lack of manpower." But it was clear the idea had not even occurred to him.

Sen. Nunn and others wrote into the Anti-Drug Abuse Act of 1988 authorization for additional attorney positions for use in asset forfeiture and other civil enforcement, and 13 of these have been allocated to the Strike Forces. The GAO found that none were aboard as of February 1989. (Page 8) In my supplemental statement to the final report of the President's Commission on Organized Crime, I outlined the difficulty getting the veteran racket-busting prosecutors who love to hear the prison bars slam on the gangsters to see the virtues of such civil weaponry as RICO. I hope this committee will press to see that progress continues toward creating a corps of a civil experts within the Strike Force structure.

The Justice Department needs to answer to Congress for another serious failure in the war on organized crime: its total failure to use the Special Grand Jury reporting provision of the 1970 Organized Crime Control Act. Exposure -- public education -- was one of the major objectives of that law. The Special Grand Jury reporting provision was intended to create a kind of mini-PSI in every major metropolitan area with a serious organized crime problem.

In 1970 the Reader's Digest ran a piece called "The Mafia War on the A&P" which demonstrated the criminal prosecutor's helplessness before a major LCN scheme to burn out A&P warehouses and compel the company to "do business" on Mob terms. In this case the ultimate victims would have been all the housewives who shopped A&P stores and used A&P house-brand products. Only one minor figure was ever indicted in that episode, and no one was ever even brought to trial. In that instance a very bold prosecutor dumped the whole case in my lap and declared, "You can perform a very important public service by laying this before the public." Indeed, that article had a great deal to do with dislodging the 1970 legislation in the House and getting it passed.

Exposing such cases via public grand jury reports may encourage other witnesses to step forward, "chill" the racketeers a bit, or reveal gaps in the law or our enforcement resources and arrangements that state legislators or Congress can plug. It is a terrible failure that the Justice Department has never convened used the special grand jury reporting provision since the act was passed in 1970. This weapon could be used most effectively if the Justice Department's bureaucracy had the wit and imagination to exploit it. It's way past time for some stern Congressional oversight on this matter.

Nov. '86

THE MOB'S STRANGLEHOLD ON NEW YORK

A Mafia-connected crook takes over a waste-disposal company by threatening its president with death. He then illegally deposits toxic chemicals at a Staten Island dump, which eventually explodes, causing a spectacular fire.

- FBI agents monitoring an informant's body wire hear two men talk of bribing a New York judge to "fix" a narcotics prosecution. Their investigation ends with the conviction of the judge on four counts of accepting bribes, over more than a dozen years, to help a gangster, two gamblers and a narcotics dealer.
- When Tony Scotto, a vice president of the International Longshoremen's Association and a capo in the Gambino Mafia gang, goes on trial for extortion from shipping companies, then Governor Hugh Carey and former New

There's a Mafia worm in the Big Apple, feeding on the commerce and industry of our largest city and forcing us all to pay tribute

By Eugene H. Methvin

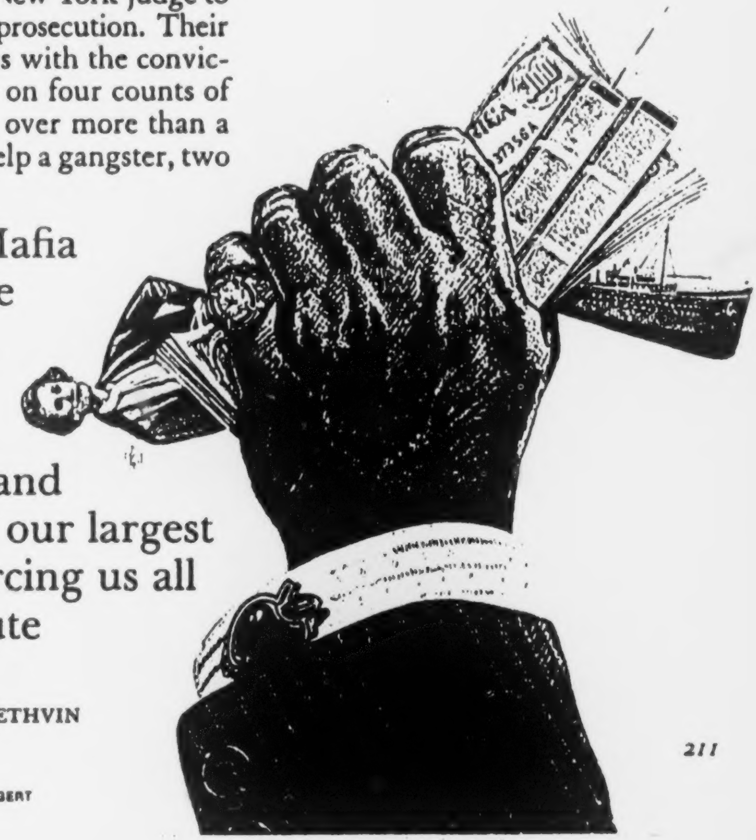

ILLUSTRATION: JOHN EGGERT

York City mayors Robert Wagner, John Lindsay and Abraham Beame testify as character witnesses. FBI tapes of Scotto's own voice in criminal conversations leave no doubt about his guilt, and he serves three years in prison. When Scotto comes out, top New York politicians flock to a festive "welcome home" dinner in his honor.

METROPOLITAN NEW YORK, home to 18 million people, is also home to a clandestine army of 940 identified La Cosa Nostra gangsters and nearly 10,000 criminal associates. From their New York headquarters they manage illicit enterprises stretching from Massachusetts to Florida to California. To a shocking degree, the Mob "owns" New York.

The modern U.S. Mafia began in New York in 1931 when warring Italian gangsters made peace, dividing themselves into five "families" and creating a "commission" of bosses to arbitrate disputes and enforce rules. They called their confederation La Cosa Nostra, "Our Thing." The commission added representatives from other cities and grew to rule a nationwide crime syndicate.

Consider how La Cosa Nostra reaches deep into the pockets of New Yorkers and of every other American family:

READER'S DIGEST Senior Editor Eugene H. Methvin, author of "It's Time to Put Labor Racketeers Out of Business," Reader's Digest, July '86, was a member of the President's Commission on Organized Crime from 1983 to 1986.

Hidden surcharges. Federal authorities say Mafia gangsters control 104 New York locals, embracing 163,000 members, of four major unions—the Longshoremen, Laborers, Teamsters, and Hotel and Restaurant Employees. Such control, reports the President's Commission on Organized Crime, "has enabled the Mob to determine who will do business, to decide when and where people will work and even to dictate wages and benefits. Millions of consumers unknowingly pay organized crime a surcharge on a wide range of goods and services."

A tenth of the nation's sea cargo moves through the New York-New Jersey ports, and Kennedy International Airport handles most of the air cargo between the United States and Europe. Controlling Teamsters who drive the trucks and Longshoremen who man the docks, La Cosa Nostra levies a heavy tax on the nation's consumers through extortion, hijacking, cargo theft and insurance fraud. The Syndicate has undermined the competitiveness of American goods and has placed a tremendous economic burden on the entire Northeast.

Mob-dominated Teamster locals include some 2500 truck drivers, warehousemen and office workers who staff Kennedy Airport's 200 air-freight companies and handle an estimated $50 billion in cargo yearly. Their boss, according to the President's Commission on Organized Crime, is Harry Davidoff, whom a Senate report labeled "a ruthless thug." Gangsters use the Teamster locals to maintain an intelligence-gathering network for planning heists of rich cargoes—gems, negotiable securities, cash. The Justice Department is prosecuting Davidoff and six others—a company executive and five Syndicate associates—on charges of conspiring to commit extortion.

Criminal cartels. New York's mobsters own major meat, fish and poultry suppliers. During one legendary investigation, New York detectives recorded a conversation between a gangster and a customer. The buyer, who suspected he was being given horse meat, was told: "Well, some of it moos, and some of it don't moo." A recent federal indictment charges Anthony "Fat Tony" Salerno, the Genovese gang boss, with extorting kickbacks on the rolls and hot dogs supplied to many Manhattan fast-food eateries.

In 1982 a Teamster official's testimony and FBI electronic surveillance revealed a cartel involving four major city moving companies. According to the resulting indictment, Bonanno gang boss Phil Rastelli exacted an extortion fee on all moving contracts and oversaw its distribution to Mob and union officials. To its chagrin, the FBI found it, too, had unknowingly paid tribute of $3500 when it used one of the companies to move into the new Manhattan federal building.

A fifth of the nation's made-in-America clothing comes through New York's Garment District, and virtually every pocket is pre-picked by the Mafia. The industry is supplied by small shops all over the city. To move their clothing to warehouses, the shops must hire Mob-dominated trucking companies that charge double what independent truckers would if they dared compete. Shop owners do not hire cheaper competitors for fear of reprisal. "Our shop doesn't have fire insurance," one owner explained when asked why he did not hire a cheaper trucker. A trucking-company executive who dared tell a grand jury about Mob methods of dealing with competitors and honest unions was murdered by a hail of bullets from a passing car.

Syndicate domination of the waste-removal industry goes back several generations. New York's 400,000 industrial and commercial enterprises have to rely on some 400 small carters, mostly of Italian extraction. La Cosa Nostra enforces an illegal customer-allocation cartel among them, collecting a share of the profits. When one carter refused to join the Mob-dominated trade association, his 73-year-old mother-in-law answered a knock on her door and was killed by a shotgun blast in the face. Another carter refused to sell a dump to a mobster; his house was torched with his two children inside.

Over the past 30 years, at least 14 major criminal investigations and prosecutions, plus repeated Congressional probes, have failed to loosen the Mafia's grip on carting. One result, according to Rand Corporation economist Peter Reuter, is that carting prices are 50 percent higher than they would otherwise be.

Construction shakedowns. A recent investigation by *The Wall Street Journal* concluded that New York's $2-billion-a-year construction industry is "riddled with extortion, vandalism, bribery, bid-rigging and inefficiency." Building costs are 25- to 35-percent higher than in any other city, with more than half of that going into Mafia coffers. Take just two examples:

Businesswoman Tama Davis budgeted $100,000 to open a small restaurant at the South Street Seaport. Shakedowns, union featherbedding and other problems ballooned her start-up costs to $350,000. Her operation is now defunct.

As the new headquarters of Dow Jones & Co. neared completion this year, the work was marked by shakedowns and extortion. Vandalism alone cost the company $500,000, and there were thefts of everything from a $50,000 air conditioner to a 400-pound safe. Says a Dow Jones official, "If it were my decision, I would never build in New York again."

Megafrauds. New York gangs also run a stable of experts adept in stock manipulations, insurance and bankruptcy scams and sophisticated bank frauds. Their swindles repeatedly cause financial disasters. For example, four New Jersey banks closed after corrupt unions lured them into accepting big deposits of benefit funds and relending the money to gangsters—who failed to repay. One Mob-connected swindler snaked $14.5 million out of another New Jersey bank, much of which went into a loansharking operation and to a drug dealer.

Colombo gang captain Michael Franzese defrauded victims ranging from General Motors and Mobil to the U.S. Small Business Administration. But his biggest scam was bootleg gasoline. Franzese put together a combine of independent distributors, who were seduced or muscled into a complex corporate shell game that siphoned gasoline out of legitimate companies, via a chain of phony companies, avoiding federal, state and local taxes. In two years the combine stole more than $150 million. After co-conspirators turned government witnesses, Franzese, sentenced to ten years in prison and five years' probation, was ordered to forfeit $4.75 million in property and to repay $10 million to various victims. No one knows where the rest of the money went.

Drugs. New York's Mafia bosses smuggle in a large percentage of the 13,000 pounds of heroin sold yearly in the United States, nearly half of which is consumed by New York addicts. In 1984, federal and New York City Police Department investigators began a two-year probe, tracing dozens of seemingly separate sales organizations to a handful of Mafia gangsters. These mobsters were smuggling in more than $2 billion worth of heroin annually, enough to supply nearly 100,000 addicts. In early-morning raids last April, federal agents and state and city police rounded up 38 gangsters whose top bosses belonged to the Lucchese and Genovese families.

Six years ago, top FBI officials realized their assault on the Mob was faltering. "Inadvertently, we were a career-development service for them," one G-man told me. "We'd knock off some older bosses and they'd promote younger, more vigorous men. They kept growing richer and stronger."

So the feds launched a new attack, exploiting a hitherto little-used statute Congress had passed in 1970: the Racketeer Influenced and Corrupt Organizations (RICO) law. Under RICO, anyone who has committed, within a decade, two or more of a long list of federal or state crimes while promoting a racketeering enterprise, can be convicted of federal conspiracy, a felony carrying a long prison term. Moreover, RICO provides for seizing racketeers' property and for such civil sanctions as removing them from union office, dissolving their corporations and imposing lifetime bans on their engaging in specified businesses.

Today, counting FBI, IRS, Labor Department and other federal, state and city agencies, almost a thousand investigators are after the Big Apple's gangland chiefs. The New York attorney general's organized-crime task force and U.S. Attorneys in Manhattan and Brooklyn have pooled electronic-surveillance evidence from dozens of sprawling investigations, and the Justice Department has sent top experts from 14 cities to screen the thousands of hours of secretly recorded Mafia conversations. The result: the first indictments of the Mafia's top bosses just for operating the Cosa Nostra Commission.

Meanwhile, in other trials, the Justice Department's racket-busters have convicted one gang boss and one underboss; prosecutions have been launched against four other bosses and two underbosses. Of 57 identified active capos commanding La Cosa Nostra groups in New York, 11 have been jailed, 22 more indicted, and the rest are under intense investigation.

Still, the racket-busters realize that this is only a beginning. The Justice Department and federal judges must do what Congress long ago ordered: move beyond jailing a few top gangsters and corrupt union bosses, and use civil RICO actions to seize the Mob's companies and property, and remove the hundreds of union officials who betray their members' trust by letting gangsters run their labor rackets. Until then there will be all too much truth in the claim: *"The Mob owns New York!"*

JUNE '72

Progress in the War Against Organized Crime

By Eugene H. Methvin

In April 1969, President Nixon stated: "Organized crime has deeply penetrated broad segments of American life. The threat cannot be tolerated any longer." He promised an all-out offensive "that will imprison the leaders and eventually paralyze the whole syndicate."

Federal "strike forces," armed with sharp new statutory weapons, haven't yet stopped the Mafia—but they've got it running scared

Eighteen months later, Congress enacted the strongest gang-busting law in the nation's history. To enforce it, 600 new Federal Bureau of Investigation agents were added, plus hundreds of additional customs, tax and narcotics investigators. And today the crime-fighters are attacking on every front.

- In New Orleans, lawmen from seven federal agencies stage lightning raids over two states. They seize 5000 illegal pinball and slot machines, valued at $10 million. Seventeen men are charged with illegal gambling, bribery, or conspiracy to obstruct law enforcement. Among them are two brothers of Louisiana Mafia boss Carlos Marcello, two ranking police officers and District Attorney Jim Garrison. The raids and prosecutions deal a deathblow to a $20-million-a-year criminal enterprise.
- In Kansas City, narcotics agents tap the telephone of a suspected heroin wholesaler and are astonished to overhear bank-robbery and murder plots. They rush with police to the home of an appointed murder victim, just minutes ahead of two

executioners. Allowed to hear the tape recording of his death sentence, the would-be victim talks. He gives inside testimony of an incredible "Black Mafia" gang masterminded by a white ex-con. This gang had committed 20 murders in two years, established total control over ghetto heroin traffic, exacted a 25-percent "franchise" tribute from prostitution, gambling and loanshark operators, and organized dozens of bank robberies, using youthful black addicts. The total take: over $25 million a year. The wiretap evidence and the witness's testimony send 18 gangsters to prison for sentences ranging from three to 35 years.

- In New York, a U.S. Senate aide is convicted of offering a bribe to the U.S. Deputy Attorney General to fix a stock-fraud prosecution of Mafia-connected defendants. The case is not unusual: In three years, Justice Department investigations have produced indictments or convictions of 170 officials in five states, ranging from county purchasing agents to mayors, councilmen, elected state officers and judges.
- In Miami last January, federal agents make the largest heroin seizure in U.S. history—385 pounds in one swoop. Its force quadrupled, the Customs Bureau in 1971 seizes 906 pounds of the drug, more than in the entire preceding decade. Meanwhile, 541 new Internal Revenue Service agents sift intelligence from police departments and in six months hit suspected narcotics traffickers for $17.5 million in taxes and penalties. The first of 413 such dealers targeted for special tax investigation—a St. Louis man living lavishly without legitimate income—finds himself heading to prison for five years on a tax-fraud conviction.

Federal "Heat." The federal anticrime drive is now moving into high gear. The Justice Department last year won 2643 indictments of gangland figures—a record. Prosecutions have tipped several Mafia families into floundering disarray. The Patriarca gang's four top bosses are in prison; of the estimated 300 mob members and associates in New England, 80 have been convicted and 67 are under indictment. Twelve of Chicago's top Mafiosi have been indicted or convicted, and the job of "boss" has gone begging: the three contenders all feel it is a sure ticket to the penitentiary.

Hundreds of mobsters are still "on the street," operating full blast. But for the first time, the federal heat is creating turmoil in the mob's inner circles. Says a veteran FBI mob-watcher, "The organization is churning and rattling. Members don't know who they can talk to, who's bugged or tapped, who's informing. They're scared."

Ten years ago, federal efforts against the Mafia were fragmented among four Cabinet departments and a dozen agencies, riven by jealousies and feuds. State and city efforts were even less effective. Meanwhile, organized gang members had created a nationwide criminal conglomerate rivaling General Motors in sophistication and diversification. Their empire embraced perhaps 5000 sworn Mafia members as executives, plus an estimated 125,000 associates and employes. Their varied criminal enterprises grossed as much as $60 billion a year.

Strike Force. The new weapon against this criminal octopus is the "strike force," invented by Assistant U.S. Attorney General Henry Petersen, now 51. Promoted to head the Justice Department's organized-crime division in 1966, Petersen fumed at the rivalry and fragmentation of federal law-enforcement agencies. He got his chance when the Labor Department, auditing a New Jersey union, found hints of widespread extortion and bribery in pipeline construction. It was a typical organized-crime situation: possible violations crossed a maze of jurisdictions. Labor's few investigators asked Justice to help. Petersen fielded a combined team of IRS, FBI and Labor agents—with sensational results. The team uncovered widespread labor piracy, embezzlement, bribery and tax fraud, and sent 12 men to jail, including an international union vice president, a mayor and city councilmen, and corporate executives.

With this success, Petersen won approval for the first real organized-crime strike force. In January 1967, he sent an experimental team of prosecutors with investigators from six federal agencies—experts in every racket—to Buffalo, N.Y., to attack the Magaddino Mafia family. Months passed as they collected and studied every scrap of intelligence. But by its first birthday, the strike force could celebrate 14 indictments against 31 defendants. (To date it has indicted 50 Mafiosi and 92 associates, and convicted 37.)

Today Petersen has 18 strike forces headquartered in different cities, covering every significant organized-crime activity. They coördinate some 3300 federal investigators. To see how they work, let's visit Manhattan's strike force on Foley Square. Here, under the direction of chief Dan Hollman, 75 representatives from a dozen federal agencies, plus city and state police, work elbow to elbow, trading information, sharing plans. They divide regularly into committees: one meeting on each of Manhattan's four Mafia families—keeping track of every Mafioso's latest activity—and a dozen covering specific rackets from stolen credit cards to pornography, hijacking to loansharking. Each agency maps its own law-enforcement assault, exploiting its peculiar expertise and the statutes under its jurisdiction. And all the agencies—from the Postal Service to the Secret Service—commit manpower to the daily grind of tailing mobsters, checking their tax returns and bank dealings, visiting convicts in prison to see if they'd like to talk, getting wiretap orders, planting "bugs" on suspected Mafia councils, and the like.

Here's how this strike force is attacking mob operations that have long thwarted the law enforcers:

Item: City detectives monitoring a "bug" in the Times Square headquarters of top Mafia "fence" Arthur Tortorello in January 1970 overhear incomprehensible chatter about "certificates of deposit," "pink sheets," banks and insurance companies. District Attorney Frank Hogan calls in two Securities and Exchange Commission investigators from the strike force. The SEC experts instantly diagnose a complex stock swindle using a bogus Texas corporation. State and federal grand-jury probes follow. Tortorello is convicted on federal securities and mail fraud charges bearing a possible 25-year sentence, and faces further state grand-larceny charges.

Item: Offered a bribe to "protect" a $40-million-a-year Mafia bookmaking ring, a New York State Police officer reports to his superiors. They order him to pretend to accept, and call in the strike force. With wiretaps and surveillance, FBI agents catch three other state policemen on the mob payroll, plus Mafia capo Nick Rattenni, who had eluded the law for years. The policemen get a year or more, Rattenni three years in prison.

Item: Strike force and police analysts map a joint attack, and agents begin round-the-clock watches on Manhattan's after-hours bars. More than illegal watering holes, they are Mafia enclaves festering with loansharks, narcotics dealers, gamblers, police corrupters. After four months an IRS undercover agent is offered a chance to buy into one bar. Hollman dips into a special budget and provides the $2000 to buy a partnership—so his agent can discover who really owns the bars, how profits are divided, where protection payments go. Last July, massive raids resulted in 28 indictments, and the closing of 14 bars that had been netting the Gambino family an estimated $250,000 yearly.

Today Hollman's strike force is winning grand-jury indictments against mobsters at a steadily rising pace, currently about 15 a month.

Legal Crowbars. To make the strike forces more effective, Congress armed them with sharp new statutory weapons: authority to use court-approved wiretaps and electronic "bugs"; funds to relocate witnesses whose lives are endangered; power to conduct in-depth grand-jury probes; the possibility of special 25-year sentences for professional mobsters; new civil procedures to cleanse or dissolve racket-dominated unions or businesses.

Most important, a grave imbalance in the rules of evidence has been corrected. The Fifth Amendment gives every American on trial the right of refusing to give evidence against himself—but not the right to refuse to testify against others, a duty of citizenship. Yet in recent years, with judicial approval, criminals have stretched "the Fifth" into a legal shield for silence in any proceeding. The 1970 law provides that a person suspected of being involved in a criminal conspiracy may be *re-*

quired to testify in a hearing, so long as it is guaranteed that his testimony or any evidence it reveals will not be used against him. If he refuses, he may be jailed for criminal contempt. If he testifies falsely, he risks jail for perjury.

Here is how lawmen across the nation are using these new legal crowbars to pry apart and smash complex criminal conspiracies:

Item: In Cicero, Ill., FBI agents with hidden cameras filmed the pitiful trail of loanshark victims regularly bringing their repayments to Mafia capo Steve Annoreno's headquarters, a pool hall, the "Family Amusement Center." Strike force chief Sheldon Davidson called them before a grand jury, and when they tried to avoid testifying, he granted immunity. Seven witnesses had to be held in contempt or indicted for perjury, before any would testify. Then they told of paying interest rates as high as 800 percent a year. One victim described a Christmas Eve beating suffered because he fell behind on payments. Their testimony convicted Annoreno and ten confederates and persuaded Judge Edwin A. Robson to impose 3- to 15-year sentences for "one of the most vicious rackets I've ever seen."

Item: In return for help in moving across the country to a new home and new job, a Newark, N.J., woman gave strike-force investigators a notebook listing code names and telephones of the runners she supervised for a Mafia numbers ring. Hearing their own voices recorded by court-authorized wiretaps, Mafia boss Sam De Cavalcante and 48 confederates pleaded guilty. De Cavalcante went to prison for five years.

Item: After a jury convicted a major Miami bookie on wiretap evidence in June 1971, he declared: "You can't work without a phone. Federal wiretaps are going to put us all out of business." Lawmen agree. Adds New York's Rackets Bureau chief Al Scotti, "The grand jury's power to use court-authorized eavesdrop evidence, grant immunity and compel testimony are indispensable weapons, especially against official corruption. They make possible 85 percent of our successful organized-crime prosecutions."

Henry Petersen sums it up: "If we keep on the offensive, with public support and teamwork in law enforcement at every level, in another five years we can reduce the organized-crime syndicate to relative ineffectiveness."

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2.

ENFORCEMENT STRATEGIES

The investigation and prosecution of organized criminal groups in the twentieth century have seldom been conducted in a continuous, coordinated, or institutionalized manner. Public interest has been aroused sporadically, creating a demand for concerted action and causing the level of law enforcement response to rise, only to be followed by diminishing public attention and by a corresponding decline in the application of law enforcement resources. Nevertheless, since the 1960s, joint investigative and prosecutive units have been established at the federal, state, and local levels to focus on the design and implementation of law enforcement strategies for the control of various forms of organized crime. The growth and structure of these units and their impact on organized crime must be examined in the context of the history of the police and prosecutive function in the administration of justice.

The investigative and prosecutive function

The United States inherited from England a system of sheriffs, coroners, and constables, designed for a medieval rural society and easily adapted to the frontier and rural conditions prevailing in America in the eighteenth and nineteenth centuries. Americans, however, retained vivid memories of the conflict between common-law courts and the crown in seventeenth-century England, of the abuse of prosecutions by the Stuart kings, and of the use of criminal law as an instrument of religious persecution and political repression. These memories were preserved in most of the early republic's legal learning, according to which the chief problems were those of restricting punitive justice and protecting the individual from oppression by civil authorities. Little attention was given to the question of making the administration of justice an effective instrument for securing democratically determined social objectives that were already limited substantially by the Bill of Rights, particularly the First Amendment. Nor was attention paid to protecting the individual from the depredations of organized gangs of lawbreakers. Fears that liberty would thereby be threatened similarly prevented the establishment of a modern police force in London until 1829.

The young republic lacked a highly developed system of public prosecution and professional police forces. Each prosecutive officer tended to act on his own, handling individual prosecutions without any general concept of his role or of the impact of his efforts on the overall administration of justice. Even well into the twentieth century, the patrol function remained at the heart of modern urban police work, since most traditional offenses—rapes, robberies, and assaults—were still perpetrated on the streets or in other public places. In a simpler society, these offenses normally involved neighbors, and a specialized law enforcement machinery was not necessary to bring the offenders to justice.

When the patrol force fails to prevent a crime or to apprehend the offender during its commission, the police must rely upon investigation. Popular fiction notwithstanding, modern detective work has changed little since its inception in the early nineteenth century. Only since about 1930 have such scientific tools as photography, fingerprint analysis, and ballistics come into common use. The detective's task largely remains one of solving individual crimes by questioning complaining victims, suspects, and witnesses. In the development of the modern prosecutive and detective functions, however, almost no attention was paid to the phenomenon of organized criminal groups and the need to respond to them with specialized evidence-gathering tools and prosecutive techniques.

The rackets bureau concept

The recognition of the need for an institutionalized response to the growth of organized crime dates from the investigations and prosecutions conducted during the 1930s in New York County. In 1935, Governor Herbert H. Lehman of New York appointed as special prosecutor Thomas E. Dewey, who conducted a series of investigations and prosecutions of organized-crime leaders and corrupt political figures. Dewey was elected district attorney in 1937, and he carried into his new office the lessons he had learned as a special prosecutor, successfully prosecuting such major figures as Charles "Lucky" Luciano, the founder of the national syndicate of organized crime, and James Hines, the leader of the Democratic Party in New York County.

As special prosecutor, Dewey had found that evidence of organized criminal activity did not walk in off the street in the form of citizen complaints, which constituted the immediate source of the vast majority of criminal prosecutions. Victims of underworld terror or exploitation did not volunteer to testify, and documentary proof of extortion or graft was usually carefully concealed in doctored books and records, access to which had to be obtained through investigative work. Dewey learned, in short, that the public prosecutor's traditional role of courtroom accuser was inadequate in meeting the challenge of organized crime or systematic political corruption. Victims had to be sought out, and the crimes committed by organized criminals or their political allies had to be uncovered before they could be solved. Close cooperation and coordination between the police and the prosecutor was essential from the beginning of an investigation so that maximum and effective use could be made of the special investigative tools that were peculiarly available to the prosecutor. Only the prosecutor could cause witnesses to be called before the grand jury, where immunity orders could displace a reluctant witness's privilege against self-incrimination; such orders could in turn form the basis for judicially coercing—with the threat of sanctions for perjury or false statements—a recalcitrant insider into testifying against his co-conspirators. In addition, various forms of electronic surveillance were best used under close legal supervision, which the police were generally not in a position to provide.

For these specialized evidence-gathering tools to be employed effectively, Dewey found that it was necessary to integrate the efforts of a highly skilled public prosecutor and a professional police force. Once incriminating evidence was obtained, the best possible use had to be made of available legal resources at every stage of the prosecution: grand jury presentation, trial preparation, the trial itself, and appeal. Otherwise, there was a distinct danger that the superior legal resources of the organized-crime offender would overwhelm the typically inexperienced young assistant prosecutor. Finally, only the prosecutor could represent the public interest in court at the time of sentencing. As district attorney, Dewey institutionalized the lessons he had learned by organizing the Rackets Bureau, which has served as the basis for a number of similar investigative and prosecutive units on the federal, state, and local levels.

The strike force concept

The office of attorney general of the United States was created in 1789, but the attorney general did not have the power to supervise all federal prosecutions. The United States was represented in federal courts by United States attorneys, who for almost a hundred years were independent in the conduct of their offices. In 1861, at the outbreak of the Civil War, the attorney general was given authority to supervise the United States attorneys. Nevertheless, because they were subject to Senate confirmation, the United States attorneys were appointed through senatorial patronage, and their local autonomy always varied, often being jealously guarded against national encroachment.

Robert F. Kennedy became attorney general of the United States in 1961 after gaining valuable experience as the chief counsel to the Senate Select Committee on Improper Activities in the Labor or Management Field (the McClellan Committee). Organized crime's influence in the labor movement had occupied much of the committee's attention, and Kennedy made an attack on organized crime a major priority for the Department of Justice. He secured the enactment of a number of legislative measures dealing with interstate gambling and racketeering, which had first been proposed in 1951 by the Special Committee to Investigate Organized Crime in Interstate Commerce (the Kefauver Committee).

Drawing on the experience and personnel of the Rackets Bureau in New York County, Kennedy also expanded the Organized Crime and Racketeering Section in the Department of Justice, which had been first organized after publication of the report of the Kefauver Committee (U.S. Congress, 1950). Kennedy assigned to this section a major role in the supervision and direction of the investigations and prosecutions of organized-crime figures, particularly in the area of labor racketeering. After the assassination of President John F. Kennedy on November 22, 1963, Attorney General Kennedy resigned, and the Department of Justice's organized-crime control program fell into abeyance.

Nevertheless, the lessons learned from these initial efforts constituted the basis for the recommendations made in 1967 by the President's Commission on Law Enforcement and Administration of Justice (the Katzenbach Commission), which identified the national structure of organized criminal groups in the United States (President's Commission, 1967a). Over the dissent of a minority of its members, the commission proposed a comprehensive legislative program to strengthen the legal tools available to gather evidence. Recommendations were made on such matters as investigative grand juries, immunity grants, perjury prosecutions, electronic surveillance, and extended prison terms for incorrigible offenders. In addition, the commission called for greater coordination of the national organized-crime effort by the Department of Justice, based on a more sophisticated collection and analysis of organized-crime intelligence by groups of interdisciplinary specialists. Most of the legislative recommendations of the Katzenbach Commission were adopted at the federal level in 1968 and 1970.

Earlier, in 1966, the Department of Justice had established the Buffalo Project, which brought together in upstate New York an ad hoc group of prosecutors and field supervisors from the Internal Revenue Service, the Bureau of Narcotics, the Bureau of Customs, the Secret Service, the Department of Labor, and the Federal Bureau of Investigation. After more than thirty organized-crime figures or their associates were indicted under federal, state, and Canadian law, the project was made permanent, termed a "strike force," and used as a model in forming similar federal units in major metropolitan centers throughout the United States.

The decision to establish a strike force in a particular area usually begins with an assessment of relevant organized-crime intelligence and the availability of personnel and other resources. Cooperation with the unit by the various federal, state, and local investigative agencies, however, is voluntary, since the attorney general has been given statutory authority to direct the investigations only of the Drug Enforcement Administration and the FBI. Criminal groups to be investigated are targeted, appropriate criminal statutes are selected, sources of information are identified, and investigative and prosecutive plans are formulated. Usually, strike forces have concentrated on the leaders of criminal groups, but such illegal activities as gambling, narcotics, political corruption, and labor racketeering have also been selected for priority treatment. Investigations employ a variety of sophisticated evidence-gathering techniques, including informants, undercover operations, and electronic surveillance, and they extensively examine books and records to trace the flow of illegal funds. The investigations generally last many months or even years before an indictment is returned and the long process of trial, appeal, and sometimes retrial begins. To be successful, such strike force programs clearly presuppose the long-term commitment of personnel and efforts.

Evaluation of coordinated efforts

In 1977, a study of state and local joint investigative and prosecutive units was conducted by the National Institute of Law Enforcement and Criminal Justice of the Law Enforcement Assistance Administration (U.S. Department of Justice, 1977), and the Comptroller General of the United States evaluated the federal strike force program (U.S. General Accounting Office, 1977).

The state and local level. Only a handful of joint investigative and prosecutive units were found to exist on the state and local level, far fewer than would be needed for coordinated nationwide police and prosecutor efforts against organized crime. In most states, public prosecutive systems had changed little since colonial days, at least with respect to their centralization or coordination of investigative and prosecutive functions. Where such units had been established, there was no consensus among them as to what aspect of group criminal behavior should be targeted. At best, this reflected differing state and local conditions, and at worst, confusion over goals and strategy. It was found that good investigator-attorney relations were essential to the smooth operation of the established units but were extremely difficult to maintain, particularly where the attorneys assigned to such units were too few, insufficiently experienced, and inadequately compensated. Investigators displayed comparable but less severe deficiencies, and support staff, particularly intelligence analysts and investigative accountants, were sorely lacking or needed to be upgraded. Almost no efforts were being made to bring to bear on law enforcement programs the insights of such other disciplines as economics and public administration. Few units had a fully developed concept of the basic task they were supposed to perform, and neither goals nor strategies had been thought through. Investigative planning usually proceeded from case to case, without any overall consideration given to the proper allocation of severely limited resources. Crisis management took the place of program planning.

The study of state and local units revealed a tendency to limit evidence-gathering to the immediate need of securing criminal convictions. Little attention was given to obtaining a proper penal disposition, that is, appropriate terms of incarceration and fines or even alternative civil remedies. Apart from examining the professional competence of individual investigations and prosecutions, the units made no attempt to evaluate the impact of their work on criminal groups or on the level of criminal activity, nor was such evaluation by an outside agency practicable. Because no goals had been set, progress could not be measured, even assuming that techniques existed to collect appropriate data for measurement.

Not only were most of the units found lacking in the sophisticated organization and direction of personnel, but the lawmaking bodies of their states had not equipped them with the necessary legal tools. For example, of the seventeen states (including the most populous ones in the nation) that the Katzenbach Commission had identified in 1967 as having the most sophisticated organized-crime groups, the majority had not passed legislation authorizing law enforcement personnel to use electronic surveillance under a court order. Moreover, it was precisely in those states that organized crime had its greatest impact in political corruption, professional gambling, narcotics, theft and fencing, labor racketeering, and the infiltration of legitimate business. The failure of these states to permit electronic surveillance has persisted even though the United States National Commission for the Review of Federal and State Laws Relating to Wiretapping and Electronic Surveillance (created by the Omnibus Crime Control and Safe Streets Act of 1968, Pub. L. No. 90-351, 82 Stat. 197 (codified in scattered sections of 5, 18, 28, 42, 47 U.S.C.)) found in 1976 that such investigative techniques were an indispensable aid in the investigation and prosecution of organized criminal groups. The commission also noted that electronic surveillance techniques worked most effectively in sophisticated, well-run joint investigative and prosecutive units.

The recommendations of the Katzenbach Commission were not adopted, however, since opposition surfaced in the various states, emanating mainly from the legal defense bar, civil liberties groups, and the academic community. Critics were skeptical of the extent to which criminal groups were organized; questioned the need for sophisticated techniques of investigation and prosecution; and expressed fear that their adoption would lead to the suppression of political dissent and the loss of civil liberty.

The federal level. Evaluation of the federal strike force program produced similar negative conclusions. The federal government had not yet developed a comprehensive strategy to attack organized crime. Although goals and priorities had been set, no carefully worked-out plans to implement them had been formulated. There was little agreement on how to define organized crime for the purpose of the strike force program. Disagreement was expressed as to whether federal attention should be directed toward such specific offenses as gambling, narcotics, and labor racketeering, or whether it should be concentrated on the syndicates that had been formed to operate or regulate the relations between individual criminal enterprises or endeavors. It was uncertain whether the federal effort should focus solely or almost solely on the national syndicate known as the Mafia, or La Cosa Nostra, which was composed primarily of persons of Italian or Sicilian extraction.

In addition, individual strike forces were hampered because they did not have authority to direct the various investigative agencies. Although important convictions had been obtained in prosecutions of certain high-level syndicate leaders and prominent political figures, appropriate penal disposition had not been secured, sentences were often too light (52 percent did not call for confinement, and only 20 percent called for more than two years), and insufficient use had been made of federal laws authorizing extended prison terms in the prosecution of serious offenses. In fact, not one of the twenty-two organized-crime groups that made up the national syndicate of organized crime identified by the Katzenbach Commission some ten years previously had been broken up. Finally, no system for comprehensive evaluation had been established for individual strike force units or for the program as a whole.

In 1981, the United States General Accounting Office conducted a follow-up study, which began by noting that the Department of Justice had conceded in 1977 that its "effort against organized crime . . . [could] be better planned, organized, executed, and directed" (U.S. General Accounting Office, p. 8). The study concluded that although some improvement had been made, more was needed. The strike force program, a $100,000,000 effort with offices in fourteen major cities and with sub-offices in another twelve, had successfully indicted and convicted high-level organized-crime figures, including family heads in New York, Kansas City, and Los Angeles.

Nevertheless, the study found that although the strike force program had set new priorities—labor racketeering, the infiltration of legitimate business, narcotic conspiracies, political corruption, and violence—it had not developed clearly articulated goals and strategies to implement them. Moreover, it had not focused its own efforts or fostered higher levels of cooperation by participating investigative agencies, and it had still not created a method of self-evaluation to measure the efficiency or effectiveness of the program's attack on organized crime. Too much attention was paid to legal questions, and too little to administrative issues, including those involving command, control, and responsibility. Commensurate sentences and significant levels of asset forfeiture were still not being obtained under the Organized Crime Control Act of 1970, and limited resources were being dissipated on marginal matters. Not one of the organized-crime families had been broken up, and organized crime continued to flourish.

Conclusion

In 1966 the Katzenbach Commission observed that ". . . the American system [of criminal justice] was not designed with Cosa Nostra type criminal organizations in mind, and it had been notably unsuccessful to date in preventing such organizations from preying on society" (President's Commission, 1967a, p. 7). A study undertaken at the request of the Senate Subcommittee on Criminal Laws and Procedures in 1969, when Congress was moving toward passage of the Organized Crime Control Act, documented the commission's conclusions statistically (U.S. Congress, 1969), and since then the picture has not changed substantially. In the study, the criminal careers of 386 identified members of La Cosa Nostra were compared, with the aid of a computer, to the careers of a control group of 124,374 federal offenders.

The results of the study were sobering. On an average, the control group was first arrested at age 22.7 and last arrested at age 32, with 6.9 arrests over a criminal career of nine years and three months. In contrast, the organized-crime group was first arrested at age 26.3 and last arrested at age 46.9, with 7.8 arrests over a criminal career of twenty years and seven months. The organized-crime group, moreover, was able to obtain acquittal or dismissal twice as often as the control group (69.7 percent as against 34.8 percent). Indeed, 17.6 percent of the organized-crime group had obtained five or more acquittals or dismissals, and since the creation of the national syndicate in the early 1930s, its members had been virtually immune from indictment and conviction at the state and local level. By the early 1980s, the federal effort against the three thousand to five thousand members of the national syndicate of organized crime was netting no more than fifty to seventy-five convictions each year, hardly a lethal blow.

In 1935, largely as a result of his service on the U.S. National Commission on Law Observance and Enforcement (the Wickersham Commission), Dean Roscoe Pound of the Harvard Law School observed that four factors had the greatest influence on the quality of American criminal justice: personnel, administration, procedure, and substance, in that order. Until comprehensive reforms reflecting twentieth-century realities are introduced in each of these spheres of the administration of justice, it is doubtful that law enforcement will make a significant impact on organized criminal groups or will reduce the extent of the criminal activities in which they engage. Little has occurred on the state or federal level since the 1977 and 1981 studies which would indicate that much has changed or will change in the foreseeable future.

G. Robert Blakey

See also Federal Bureau of Investigation: History; Federal Criminal Jurisdiction; Federal Criminal Law Enforcement; Grand Jury; Police: undercover tactics; Wiretapping and Eavesdropping.

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OVERT ACT

See CONSPIRACY; TREASON.

President's Commission on Organized Crime

Report to the President
and the
Attorney General

THE IMPACT:
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effectiveness; nor did its staff ever suggest it recognized the importance of the issue.

The second, equally inexplicable omission is the failure to address directly the matter of and necessity for, alternative strategies for those who investigate and prosecute organized crime. What is appropriate for work against La Cosa Nostra organizations in New York City is not necessarily appropriate for an Outlaw Motorcycle Gang in California, or a Colombian narcotics group in Florida. Geographic location, degree of criminal sophistication and principal activities are factors which must be considered in selecting and implementing diverse strategies for different groups. Identifying strategic models and articulating the need for alternatives should have been a principal effort during our term. Unfortunately we have not even identified the problem as a problem.

There is truth is the adage that not all wisdom resides on the banks of the Potomac. In that connection, our leadership should have looked beyond the river and across the country for ideas and strategic initiatives. With the failure to explore these matters, as well as others, we have not discharged the responsibilities assigned to us by the President and have not kept faith with law enforcement which had a right to expect more from us.

Commissioner Methvin

I

There is simply no way to gloss over politely or to excuse this Commission's ignominious failure to discharge the most crucial task assigned to us by the President: to advise him and the Attorney General with respect to actions to improve law enforcement efforts directed at organized crime and to make recommendations concerning appropriate administrative and legislative improvements in the administration of justice. The Commission failed abjectly to undertake a comprehensive investigation and evaluation of the Federal response to organized crime. We did not conduct the crucial inquiry and ask the hard questions that might have allowed us to make effective recommendations on a central concern in any evaluation of the federal response -- the performance of the U.S. Justice Department.

At the Commission's first public hearing in November 1983, this Commissioner submitted to Justice Department spokesmen a request for a study covering 14 questions regarding the Organized Crime and Racketeering Section's performance since passage of the 1970 Organized Crime Control Act. (Copy attached). The Commission itself later adopted this questionnaire. Yet the Justice Department failed to respond, and the Commission staff failed to press with sufficient vigor to obtain most of the data.

In June 1984 at a meeting attended by most members the Commission laid out a "battle plan," formally adopted by unanimous vote, for a series of hearings. The capstone hearing was to have been one on "the Federal response," which would naturally focus upon the Justice Department and its Organized Crime and Racketeering Section and the Federal Bureau of Investigation.

Due to the Commission's own mismanagement and poor financial planning, that hearing was never held. As a pallid substitute, at a special meeting of a minority of Commissioners on December 8, 1985, the attending Commissioners agreed that the staff would conduct a series of interviews with Justice Department officials and former officials to evaluate past operations. The Commission staff without notifying concerned Commissioners disregarded that agreement, and those interviews were not conducted. Other Commissioners did not discover this action until the Commission's meeting of March 4, 1986, at which point most of the staff was disbanded.

Thus, a thorough independent investigation and evaluation of the Justice Department's performance against organized crime still remains to be done. Let it be clear that my concerns do not focus on the performance of this or any other Presidential Administration or even particularly upon the Justice Department, per se. Rather, my concerns arise from the generic nature of bureaucracies and the need for periodic independent evaluations that may reorient, refocus and remotivate them. In this case, we were assigned to assess the permanent Federal law enforcement bureaucracy that must be mobilized in any sustained strategic attack upon organized crime, of which the Justice Department inevitably must be the centerpiece. Yet whether we consider the Bureau of Indian Affairs, the Department of Defense or the Justice Department, all bureaucracies have their self-protective devices and defensive habits with which they fend off outside evaluation and criticism and even "interference" from the passing parade of politically selected Presidential appointees who represent the will of the American people expressed via the ballot box. One of those habits has gained among Washington denizens the sardonic label of "the NIH disease," which stands for "Not Invented Here" and represents one usual response among bureaucrats: "We did not think it up, so it cannot be worth doing." This trait is so ancient and innate that one of The Federalist essay authors, Alexander Hamilton, in No. 70 in 1787 remarked upon it:

> Men often oppose a thing merely because they have had no agency in planning it or because it may have been planned by those whom they dislike. But if they have been consulted, and they have happened to disapprove, opposition then becomes, in their estimation, an indispensable duty of self-love. They seem to think themselves bound in honor, and by all the motives of personal infallibility, to defeat the success of what has been resolved upon contrary to their sentiments. Men of upright, benevolent tempers have too many opportunities of remarking, with horror, to what desperate lengths this disposition is sometimes carried and how often the great interests of

> society are sacrificed to the vanity, to the conceit and to the obstinacy of individuals.

In the context of the contemporary Justice Department, no less an observer than former Attorney General Griffin B. Bell has commented at length upon the permanent bureaucracy's armamentarium of devices and stratagems for fending off interference from the Presidential appointees who come into their midst for limited terms of stewardship in behalf of the American people. See "Curbing the Bureaucracy," Chapter 2, Bell, Griffin B., with Ostrow, Ronald J., Taking Care of the Law (New York: William H. Morrow & Company, 1982).

II

The career prosecutors and investigators of the Justice Department and the Federal Bureau of Investigation have displayed admirable dedication and competence in mounting effective investigations and prosecutions of organized crime. The Reagan Administration have given their efforts high priority and unstinting support and leadership. The Justice Department in the first four years of the Reagan Presidency obtained Federal court authorizations for 733 electronic surveillances, compared to only 326 in the preceding four years. These investigations are now paying off. In the four years 1981-84 the Justice Department approved 351 criminal RICO prosecutions compared to only 217 in the entire previous ten-year life of the act. In the past three years, the heads of 16 of the nation's 24 La Cosa Nostra families have been indicted, and many of them are already in prison. The president of the nation's largest trade union, Roy Williams of the 1.9-million-member International Brotherhood of Teamsters, was convicted and imprisoned. The first civil RICO action ever against a union was successfully pressed against Teamster Local 560 in New Jersey so that the racket bosses who dominated this huge union for decades have been expelled from office and their union placed under court trusteeship until free elections can be held to return it to its members. The Federal Bureau of Investigation and Justice Department officials responsible for this record have displayed magnificent dedication and superb individual craftsmanship in investigating and prosecuting particular criminal cases. But as a collective institution, given the inherent limits of the criminal prosecution "body count" strategy, they fall badly short of mounting the effective root-and-branch attack on the entrenched rapacity of organized crime Congress ordained in 1970. The American people have a right to demand the fulfillment of that promise.

III

For 20 years the Justice Department has resisted reform of its Organized Crime and Racketeering Section and that bureaucracy's rigid and narrow devotion to case-by-case criminal prosecutions to put gangsters behind bars. Success is measured by "body counts" and by the celebrity of trials and defendants convicted. (See Profile of Organized Crime: Great Lakes Region, hearings before the Senate Permanent Subcommittee on Investigations, 1984, statement of Staff Investigator Fred Asselin, pages 287-326, esp. 298). A 1967 Presidential commission recommendation was to raise the section to division status, analogous to the Antitrust Division, and give it both criminal and civil sections. This organizational change would ensure that the Justice Department's racket-busters would give due attention to the civil as well as the criminal weapons in its statutory armory. (See my supplemental statement in the Commission's January 1985 report, THE EDGE: Organized Crime, Business and Labor Unions.) As the Commission noted, "Labor racketeering is not easily deterred by prosecutive efforts that merely 'count bodies' as a measure of success. Instead, a new strategy must be developed to bankrupt individual mobsters and to discourage union officers, employers and public officials from accommodating organized crime." (Id., Section One.)

That "new strategy" was adopted by Congress as part of the 1970 Organized Crime Control Act in the civil remedies of the title called Racketeer Influenced and Corrupt Organizations (RICO). For most of that statute's life, the Justice Department's career prosecutors have simply ignored civil RICO weapons. Its prime Senate sponsor, Senator John L. McClellan, declared civil RICO "provides a means of wholesale removal of organized crime from our organizations, prevention of their return and, where possible, forfeiture of their ill-gotten gains." (116 Congressional Record 591.) Yet the Justice Department's career racket-busters gave civil RICO the typical bureaucratic "Not Invented Here" ho-hum response. In 15 years the Justice Department brought only six civil RICO actions: (1) U.S. vs. Coli, unreported case failed in the Northern District of Illinois (date unknown); (2) U.S. v. Cappetto, 502 F.2d 1351, 7th Circuit (1974); (3) U.S. v. Winstead, 421 F. Supp. 295, Northern District of Illinois, 1976; (4) U.S.v. Ladmer, 429 F. Supp. 1231, Eastern District of New York, 1977; (5) U.S. v. International Brotherhood of Teamsters Local 560, 581 F. Supp. 289 (1984), affirmed, Third Circuit, December 26, 1985; (6) U.S. v. Barnett, complaint filed in May 1985 in the Middle District of Florida.

Against the Justice Department's record of only six civil RICO cases in 15 years, state and local governments have done at least twice as well; they brought 13 reported cases.

The last two of the six Federal civil RICO cases deserve special comment. The Florida case is the first suit ever under civil RICO seeking treble damages for Uncle Sam and the taxpayers. Defendants are two businessmen and three companies previously convicted under criminal RICO and other offenses involving a massive fraud in obtaining Defense Department laundry contracts, and the government seeks $47 million. The Local 560 case is the only civil RICO action ever brought that seems to fulfill the high hopes of Senator McClellan and other RICO sponsors. The judge discharged the union's officers, ending 20 or more years of domination by the LCN's Genovese family gangsters, and ordered a free election after an 18-month "cooling-off" period. Each action could be a model for Federal racket-busters everywhere. Under civil RICO the Attorney General is authorized to sue on behalf of victims of patterns of racketeering, as in the Local 560 case, and he or court-appointed trustees could seek treble damages from piratic health and welfare fund trustees and other racket-allied perpetrators.

Indeed, Assistant Attorney General Stephen S. Trott of the Criminal Division on May 20, 1985, told the Senate Judiciary Committee: "We hope to build upon the legal principles established in Local 560, to produce similar cases in the future . . . The Local 560 case, in many ways, has opened our eyes to the potential of civil RICO . . . Future cases along the lines of Local 560 will be instituted."

This Commission's failure to help the Administration open the eyes of the Justice Department careerists by examining and evaluating their record is all the more tragic in this light. The Local 560 case in fact established no new legal principles that were not established when the law was passed 16 years ago, and we have lost those years in which we could have struck many comparable blows for liberation from the gangsters' thrall for millions of Americans.

Why has the Justice Department failed to use the civil RICO weapon? Assistant Attorney General Trott was shrewdly accurate when he told the Senate Judiciary Committee: "Naturally, prosecutors prefer, and are trained, to remove organized crime influence from the business and financial communities through criminal prosecutions that result in lengthy jail sentences, stiff fines and forfeiture of criminal proceeds. Consequently, we have made very little use of civil RICO in the past."

As a professional journalist, I must add that the nation's news media must bear some of the responsibility for this dereliction. We journalists love the racket-busting criminal prosecutor. But we pay very little attention to the less glamourous civil proceedings, as witness the apathy and lack of coverage of the dramatic and pioneering Local 560 case, which broke the Provenzano Gang's hold on thousands of New Jersey Teamsters and businessmen. As the General Accounting Office has noted, news coverage is one of the "informal" indices by which the Justice Department strike forces measure their own effectiveness.

The civil RICO weapon will not come into its own until the Justice Department has a corps of attorneys who are as skilled at racket-busting civilly as the strike force prosecutors are at proceeding criminally. U.S. Attorney Rudolph W. Giuliani of the Southern District of New York in February 1986 filed a civil RICO action which hints what can be done. He filed the first civil RICO action seeking to ban people altogether from engaging in a business because of their racketeering activity in that business.

The targets were a high-ranking Genovese gang member, Matthew Ianniello, and a partner, Benjamin Cohen. In a civil RICO action the government does not bear the heavy burden of "proof beyond a reasonable doubt"; it may win if it carries only a "preponderance" of the evidence burden. moreover, gangsters cannot "take the Fifth" with impunity. As Newark Strike Force Chief Robert Stewart, architect of the pioneering Local 560 case, pointed out in the Commission's April 1985 labor racketeering hearing: "Silence can be probative of deliberate concealment and can support the common-sense inference that a truthful answer would be detrimental to one's position." The judge or jurors may take silence as proof of deliberate concealment and conclude that a truthful answer would prove the government's case. In the Local 560 case, a business agent refused to answer questions about meetings with LCN gangsters -- and the judge drew the adverse inference.

IV

Here is the Justice Department's record on criminal RICO cases:

YEAR	CRIMINAL RICO PROSECUTIONS AUTHORIZED BY THE JUSTICE DEPARTMENT
1970-80	217
1981	65
1982	62
1983	102
1984	122
1985 (through May)	32

The Justice Department excuses this record by claiming that the Supreme Court in 1981 "extended the reach" of RICO and in 1983 "expanded" its forfeiture provisions. (Letter of Gerald T. McGuire, Deputy Chief, OCRS, to President's Commission on Organized Crime, July 8, 1985.) In fact, the Justices only affirmed that Congress meant what it said in 1970 when it ordered judges to give the statute a "liberal" construction. As FBI Director William Webster said at a February 1985 press conference announcing the RICO indictment of the LCN "Commission" members in New York: "We had RICO for ten years before we knew what to do with it."

Of the Justice Department's 600 criminal RICO cases through May 1985, only 68 were brought by the strike forces, against 461 defendants. Those cases yielded $1,125,000 in fines and $3,235,000 in forfeited assets -- a scandalous pittance when measured against the vast potential. To win a criminal forfeiture a prosecutor must first obtain a grand jury indictment specifying the interest to be forfeited; a specific finding by a jury trial after a full criminal trial; and the entry of judgment by the court. The forfeiture may extend beyond property to include union offices, corporate ownership and partnership interests.

For further discussion of the many vigorous state actions under their own RICO statutes, see my supplemental statement, cited ante, and the statement of the National Association of Attorneys General and National District Attorneys Association before the House Judiciary Subcommittee on Criminal Justice, October 1985.

V

Because of this Commission's failure, the job of overseeing and evaluating the Justice Department's performance will fall where it has always rested: the General Accounting Office and the Congressional committees charged with legislative oversight. These bodies have clearly not been active or effective in the 16 years since the 1970 Organized Crime Control Act passed in inspiring and prodding the Justice Department to pursue the strategy implicit in that act.

The results of that failure are evident in the continued growth of organized crime uncovered by this Commission and in the Justice Department's shocking and almost total failure to utilize the civil litigation weapons provided by the 1970 act. The Congress needs to take a more active oversight role in the future.

Cochairman Nunn. Thank you very much, Mr. Methvin.

Mr. Muellenberg, we are delighted to have you. You have been before our committee and the Judiciary Committee many different times. You have had a long and distinguished career and we welcome you here today

STATEMENT OF KURT W. MUELLENBERG, MANAGING DIRECTOR, KROLL ASSOCIATES, AND FORMER CHIEF, ORGANIZED CRIME AND RACKETEERING SECTION, U.S. DEPARTMENT OF JUSTICE

Mr. Muellenberg. Thank you very much, Mr. Chairman, and happy birthday.

Cochairman Nunn. Thank you.

Mr. Muellenberg. It is really a kind of a strange feeling for me because when I had the privilege to come before a committee in the past, it was usually in the sense of oversight and either I or the organization I was associated with had done something terribly wrong.

It is strange for me to be here and speak on behalf of an organization that I helped build over many, many years, and I have a great deal of respect and affection for the men and women who work in the Organized Crime Section and the Organized Crime Strike Forces. As you may know——

Cochairman Nunn. Mr. Muellenberg, would you pull that mike up just a hair closer?

Mr. Muellenberg. Yes; as you may recall, I joined the Organized Crime Section in 1966 and I was, in fact, made the chief of the section by then Assistant Attorney General Thornburgh in 1976, in the fall of 1976.

And it was interesting to listen to the testimony of the Attorney General this morning because, as you can readily imagine, the emotional battles were very intense and very high in 1976 when some of the strike forces were closed and the strike force in New York was merged, and if I had taken good notes at the time of all the discussions, they would have been exactly the same as we heard here today.

I would like to address a couple of particular instances of things that concern me in the proposal of Attorney General Thornburgh. As Professor Heymann has indicated, the program is, in fact, working, which everybody seems to agree it is working.

If the strike forces are merged, they are, in effect, out of business. They will be just like the Narcotics Section, which I also headed at one time, in the Criminal Division, and I was appointed to that position by then Assistant Attorney General Thornburgh. The Narcotics Section is a section in search of a mission.

The Organized Crime Section, if you have 20, 25 attorneys sitting in Washington and, on a traveling basis, handle some organized crime cases, will be reduced to that kind of an effort as well.

And if, as Professor Heymann indicates, the Attorney General, after Mr. Thornburgh leaves, 5 years from now says the strike force idea, the concept, was, in fact, a good concept and we should reinstitute it, it takes many, many years to build an organization that has an institutional memory, that has the integrity, and that has the talented prosecutors, men and women, that we have today.

On the specific proposal of Attorney General Thornburgh on the Organized Crime Council, which will guarantee, if his proposal is implemented, that the effort does indeed continue, while I was the Chief of the Organized Crime Section I instituted the National Organized Crime Planning Council, which still exists today, and it is a council composed of people who are mid-level supervisors in the agencies who do meet on an ongoing basis, visit each strike force, at least, in every 18-month period, and make evaluations. These are the kind of people who can supervise, who understand what the problems are, and they are close enough to the problems.

Based on my experience when I was inspector general at GSA, and we had numerous councils that I attended—most of them were a tremendous waste of time—a council composed of the Attorney General, the Deputy Attorney General, the Assistant Attorney General, the Director of the FBI, and the heads of all the agencies participating in the organized crime program is, to me, not any kind of a council that can effectively participate in this program. It is much too high level; it is not needed, and I don't think it will make any great contributions to it.

In the Attorney General's testimony this morning, and the issue that seems to always come up very conveniently when the merger situation is addressed, is an attempt to always show the strike forces as being out there as some kind of an independent organization. Nothing could be further from the truth.

I was on the first full-fledged strike force in Detroit in 1967. Henry Petersen was the Chief of the Organized Crime Section at that time. It was very clear from the very beginning that the U.S. attorney in each and every district where we work is the chief law enforcement officer in that district. You cannot return an indictment unless it is signed by the U.S. attorney.

Today, the guidelines have been structured in such a way that from the initiation of an investigation, to applications for electronic surveillance, for immunities, indictments, selection of a trial team, the U.S. attorney is a key player in all those decisions.

And if the Attorney General wants a strike force unit in a U.S. attorney's office that has that kind of supervision, he has it today. The strike force chief and the strike force attorney work under the general supervision of the U.S. attorney. It is not correct to constantly paint them as being independent agents out there somewhere in the field.

When we talk about the dedicated resources that this Government should continue to provide in this effort against organized crime, we are talking about 120 capable, experienced prosecutors who everybody acknowledges have done an outstanding job.

I don't know how many assistant U.S. attorneys there are currently in the Federal Government, but I would venture to say there are at least 2,500. We are talking about 5 percent of the prosecutorial resources dedicated, set aside for a problem that everybody agrees is an ongoing problem, and I would urge you, Mr. Chairman, both committees, if it is within your power to do so, to do everything in your power to preserve this system as it exists today.

Thank you.

Cochairman NUNN. Thank you, Mr. Muellenberg. One part of your testimony you might want to go over specifically—I think it is interesting—and that is relating to when you were in the Government in 1976 and your experience with the 40 prosecutor positions that became available to work on major narcotics cases, because that is indicative of what so many of us fear is going to happen here. Could you relate that incident?

Mr. MUELLENBERG. Sure, I would be happy to, and this exactly what happened and I would expect it will happen in the future. I was Chief of the Narcotics Section, and through some circumstance 40 prosecutorial positions became available in the Federal Government. There was a great discussion of where they should go.

Ultimately, it was decided that we set up special narcotics units in U.S. attorneys' offices. One of those U.S. attorneys' offices was in Los Angeles. Three positions were allocated. I had the job as the Chief of the Narcotics Section to monitor the progress of those units. That unit disappeared in very short order.

I flew to Los Angeles. I discussed it with the U.S. attorney. He said, look, I have a lot of cases coming into this office; I have the Speedy Trial Act. One of my assistants quit; another one is sick. The judges are screaming at me. I can't afford the luxury of having three guys sitting down at the end of the hall dreaming up big narcotics conspiracy cases; it doesn't work that way. I have to use the resources that I have to run my office—a feeling that I certainly can share and I can understand.

I came back to Washington. I discussed this with then Assistant Attorney General Thornburgh and he said, look, Kurt, it is a problem. We have to try to keep this program going, but we cannot tell the U.S. attorney in Los Angeles how to use his resources on a daily basis, and I am not going to do that.

That is the experience I had, and I would predict to you, Senator, we are going to have the same experience again in the future in this program.

Cochairman NUNN. Thank you very much for your testimony here today.

[The prepared statement of Mr. Muellenberg follows:]

STATEMENT OF

KURT W. MUELLENBERG

BEFORE THE

COMMITTEE ON GOVERNMENTAL AFFAIRS,
UNITED STATES SENATE

Mr. Chairman and Members of the Committee:

I joined the Organized Crime Section in the fall of 1966. Prior to that, I had worked as an attorney in another government agency after having completed four years of service in the United States Air Force.

In late 1967, the Detroit Strike Force was established and I was named the Deputy Attorney in Charge. Detroit was the first full-fledged strike force, following a temporary operation in Buffalo the year before. In 1969, I set up the Cleveland Strike Force and in 1972 became one of four Deputy Chiefs of the Organized Crime Section here in Washington. I subsequently ran the Strike Forces in Manhattan and Miami, becoming Chief of the Section in December 1976. I was appointed to that position by then Assistant Attorney General Thornburgh. I only left the Section upon my nomination by President Carter in April 1979 to be the first Inspector General of the General Services Administration where I served, after Senate confirmation, until January 1981. I returned to the Justice Department as a Senior Litigation Counsel until the spring of 1985 when I assumed the duties of a newly created position as Senior Counsel for International Law Enforcement at the American Embassy in Rome, Italy, working with the Italian Ministry of Justice on the implementation of a Mutual Assistance Treaty, matters of extradition, and, as a result principally of timing and circumstances, matters of terrorism. I retired from government service in November 1987.

I was quite surprised and saddened to learn that Attorney General Thornburgh has proposed to merge the Strike Forces into the United States Attorneys' Offices; surprised because I thought we had resolved that issue once and for all back in 1976 when I became chief of the Section, and saddened because the future ability of the Government to address the problem of organized crime will be undermined at the moment of the program's greatest successes. In 1976, after exhaustive discussion and development of new guidelines, and the closing of three Strike Forces, I was convinced that this program would be given a chance to prove itself, and it has. At the same time, we formed the National Organized Crime Planning Council, which I am happy to note received favorable mention in the April 1989 GAO Report on "Issues Concerning Strike Forces", to monitor the work of the Strike Forces on an ongoing basis. Mr. Thornburgh fully endorsed that move and, to the best of my recollection, addressed the first meeting of that group.

I don't think it necessary to recite to you today the success of the program. A small group of dedicated men and women, 120 of them as of February 1989, assigned to 14 Strike Forces and 11 suboffices, has compiled a record of achievement that commands respect and, one would have thought, the full support of the leadership of the very Department for which they work. These men and women represent a career prosecution program unparalleled in the history of Federal law enforcement, their dedication and committment is deep, and, as the matter we are discussing here today exemplifies, they are not always working under the best of circumstances. I consider it an honor to have had the privilege to work with so many of them over the years.

I would like to address a few points in the Attorney General's proposal, as I understand them.

On June 20, 1989, Assistant Attorney General Dennis testified before the House Judiciary Committee that, and I quote: ". . . the principal benefit that this consolidation is intended to generate is the affirmation that the United States Attorney is the primary law enforcement figure in his or her district." The fact of the matter is that this has never been in question. From the very beginning of the program it has always been required that the U.S. Attorney sign all indictments, complaints, affidavits, etc., on all cases brought in the district. The current quidelines, as you know, are much more comprehensive, including designating the U.S. Attorney as the rating official for the Strike Force Chiefs, which I personally think is a mistake. Today, the U.S. Attorney has to approve the Case Initiation Report, authorize all Title III's, informations, indictments, and immunities, among other things, and he can select the trial team. What the U.S. Attorney may not do, and this is really at the heart of this whole matter, is to utilize the dedicated resources, with their acknowledged expertise, of the Strike Force team on other, undoubtedly important matters. If everyone seems to agree, as I do, that the government fight against organized crime in our country is far from over, there can be no doubt that this program needs to be continued and given the recognition and support it deserves.

Permit me to say a few words about U.S. Attorney - Strike Force cooperation. Every time the merger proposal is renewed, the argument is made that a merger would reduce competition, and would reduce confusion and overlapping jurisdiction. Mr. Thornburgh made it again in his June 19, 1989 press release on this subject. The facts are different. The conflicts between U.S. Attorneys and Strike Forces on the handling of particular investigations or prosecutions are few and far between. That was certainly the case when I ran the program and I know it remains true today. U.S. Attorneys are very busy people and most of them are highly competent and dedicated, regardless of the administration in power. The volume of cases coming into their offices is staggering. And the cases must be handled. I expect that the current revelations about irregularities in the defense industry and national housing programs will keep many of them quite busy. More importantly, they have to respond because that is their job. As we all know, these scandals come and go, and others will probably do so in the future. Organized crime is not a temporary scandal, it is a sophisticated, ongoing criminal activity requiring an ongoing, experienced response. We have that response. Everyone agrees, including Attorney General Thornburgh, that Strike Forces have compiled an impressive record in the past two decades, and I am confident that record will be maintained in the future, if given a chance.

When I started out in this program back in 1966, we had to cope with reluctant cooperation by the investigative agencies, lack of cooperation from local and state law enforcement and, perhaps more importantly, a lack of comprehension of just what organized crime was all about. It has taken many years of hard work to get to the point where major organized crime families have been successfully prosecuted and that only within the recent past. That didn't happen by accident. It happened because Strike Forces made it happen.

The proposed merger ends the program. The Organized Crime Section will be reduced to 25 or 30 attorneys and the U.S. Attorneys will have "Strike Force Units" which they will run any way they please, subject to the concurrence of the Assistant Attorney General, which will be given. It always has been in the past. The ability of the Department of

Justice to launch a nationwide program and hold it together is not very high. I recall in 1976, when I was head of the Narcotics Section, about 40 prosecutor positions were made available to work on major narcotics cases. After lengthy debates, it was decided to place special units into selected U.S. Attorneys' offices with the specific mandate that they should concentrate on developing major narcotics conspiracy cases. In one of those offices, the attorneys were quickly blended into the regular workload. I remember discussing this development with the U.S. Attorney concerned, who advised me that he would decide how his own resources were used. I discussed this with Mr. Thornburgh and he told me, in so many words, that I should use my powers of persuasion to keep the program on track, but that we were not prepared to tell the U.S. Attorney how to manage his office from Washington.

I have only related this episode to you to demonstrate how difficult it is to manage nationwide programs in law enforcement. While I certainly don't question the Attorney General's commitment to fair and aggressive law enforcement in all areas, we should also learn from our experiences.

I will be happy to try to answer any questions you may have. Thank you.

Cochairman **Nunn**. Our next witness, Mr. Vaira, is also a familiar face before our subcommittee, and I am sure the Judiciary Committee, too, having been the former strike force chief in, I believe, Philadelphia, and former U.S. attorney for the Eastern District of Pennsylvania. So you have seen it from both sides. We welcome you here.

STATEMENT OF PETER F. VAIRA, ATTORNEY, FOX, ROTHSCHILD, O'BRIEN, & FRANKEL, AND FORMER U.S. ATTORNEY, EASTERN DISTRICT OF PENNSYLVANIA, AND FORMER STRIKE FORCE CHIEF, CHICAGO, IL, AND PHILADELPHIA, PA

Mr. **Vaira**. Thank you, Senator. I was also the Strike Force chief in Chicago.

Cochairman **Nunn**. Chicago and Philadelphia.

Mr. **Vaira**. And I was the first Executive Director of the President's Commission on Organized Crime. I have been there; I have been at both sides of the line.

This is a turf fight. I am going to speak very practically because that is where I am coming from. This is a turf fight, and the Organized Crime Section is very successful; there is no question about that. If they weren't successful, gentlemen, we wouldn't be here because no one would want to be merging a dog, a loser. That is why we are here; that is why we are here to pick it up.

The U.S. attorneys aren't trying to merge the antitrust field offices. They have been in their territory for a long time. That is not it. It is turf. Mind what I say about a turf fight. Turf fights only exist because they are permitted to exist.

In 1972–73, I just became the chief of the Strike Force in Philadelphia, and the U.S. attorneys, who were some powerful U.S. attorneys then, decided they wanted to scrap the Strike Forces, and they went to John Mitchell and Kleindienst and told them that.

Mr. Mitchell and Mr. Kleindienst put them in a room with us, listened to them for half a day, and told them to go home; they didn't want to hear any more about it. And we never heard any more about it. Gentlemen, turf fights do not exist if they are not permitted to exist.

At a hearing that I testified at in front of the House, Mr. McDonald, the former head of the strike force in Brooklyn, had this phrase: If there are turf fights, well, shame on you, shame on you.

Mr. Skinner was here, and he and I worked together a long time. I was the strike force chief with Mr. Skinner as the U.S. attorney. We did a lot of things together, had a very, very successful time. Nobody knows this, but we are the ones who started that great investigation called Greylord. I, as the strike force chief, turned the original informant, and went to Mr. Skinner and said we try this case and we lose our licenses. Now, let us figure out how we can do it. It took a long time, but that is how it started. It was a strike force case to begin with.

Mr. Skinner said times change, and times do change. We have gone too far. We cannot go back to 1950, and that is where we will go if we do this; we will go back to 1950. I don't mean we have to perpetuate this, but if we do it as they want to do it, we will be back there.

Let me tell you what will happen; let me give you my perspective as the U.S. attorney. The strike force chief will be picked by the U.S. attorney. And what will his qualifications be? Whatever the U.S. attorney wants him to be.

The U.S. attorneys coming in want to bring their own supervisors; they want somebody. That is my man, he will be OK. You cannot tell me that Washington, DC, will stop that. They may do it for a month, but that will be it. That particular assistant will simply be another supervisor, and supervisors move through U.S. attorneys' offices frequently—the average, about 1 year, 1½ years. They move up. He wants to become the first assistant; he will move up there. And that expertise will not stay, if he had it in the first place; it will just move on.

We talked about personnel. The personnel who go into that unit will be changed, be changed rapidly. They talk about these OCDETF strike forces. The personnel don't stay there; they move through like a revolving door. If you go out, you will see that it changes.

If I were the U.S. attorney, any hot shot I had in there working those drug cases, I would pull him out and put him on something that was going to make me look good. I would put him on something—if I was prosecuting some big case, I would want him out of there.

Mr. Muellenberg mentioned the U.S. attorney in Los Angeles stealing his positions. Kurt, I did the same thing. When I became the U.S. attorney, there was some sort of drug strike force in my place. I ate them up, just took them off and used them for something else, because I had better things to do. Mr. Chairman, I think that is going to happen again. You can't tell me that it won't.

Some examples of what this new proposal is going to be—we are going to have this Organized Crime Council. Well, they had that when I first started in the strike forces. I have seen it come and go. You cannot tell me you need, as Mr. Muellenberg says, a bunch of high-powered guys sitting there doing something and telling some U.S. attorney that he should straighten up his act. That simply isn't going to happen.

You need somebody in the Department of Justice to tell their own people what to do and how to run it. It is simply a question of leadership, and you don't need a bunch of outsiders to be brought in. It is a good idea, something like that, if you want to do it on a grand level. The President of the United States is going to have to give an order to make people work together. It ain't going to happen this way.

The Attorney General has said that the U.S. attorney can manage his own territory; he knows what the problems are and he can move his personnel around. Mr. Chairman, I was a very powerful U.S. attorney. Nobody doubted that I was the boss. I never had any turf fights. If I had a strike force there, it worked very well.

I used to go the U.S. attorney in New Jersey and I would say we have got to do something about Atlantic City; the mob is moving back and forth. They are centered over there, they are centered over here. We have got to get our hands on them. We simply couldn't do that. I had no power in his district; he had no power in mine. We had to go to the strike force in Philadelphia and New

Jersey, and they have a wonderful record. They have been extraordinarily successful, extraordinarily successful. We couldn't do it alone.

I have been U.S. attorney in two different administrations, in Mr. Carter's and in Mr. Reagan's, both about the same amount of time, 2½ years in each, and I served with some awfully good people. Mr. Valukas, sitting behind me, is an old, old friend. We came up through the ranks together—talented, talented people.

But we could never initiate any programs. We would meet together and we would reinvent the wheel. We would sit down and talk about questions that were problems 20 years ago and will be problems now. It is beyond the U.S. attorney's position to do that, to initiate programs.

I have heard a lot about the OCDETF program, how it is working and how these drug task forces seem to be working. Two comments; if you can't make a drug case today, you are in bad shape. I mean, 2,000 cases, I heard they made last year; that is about one per assistant.

Read the testimony of Charles Blau, who headed the OCDETF task forces under Stephen Trott; very critical. He said what I suspect, that it was just 94 miniattorneys general working on these.

It is about time that the Department of Justice become a national organization, and I mean a serious national organization. It cannot go back to 1950 and have 94 persons running 94 different programs. And you may say, well, there will be no more turf fights. There will still be turf fights. The U.S. attorneys will fight like mad. I spent all my time fighting with the Southern District of New York. Ask anyone who has been a U.S. attorney; you are always into those.

So what I am saying is somebody has got to run this place, and it has got to have national programs and we have got to think big and we have got to think about tomorrow. That is one of the reasons why you have the drug czar, is simply because we can't get them to coordinate.

This is not going to make any coordination. We really have to think big.

I will close with a little story with how sometimes we get caught up in these things and forget what is really important, what works. You may go back to your office, Senator, and you might find a farmer back there named Gilchrist. He is going to say, what was that hearing you had out there and all those fellows with $300 suits? You say, well, that is a hearing about whether we are going to stop the task forces on organized crime.

The farmer is going to say, well, it is not working, huh? And you say, no, it is working very well; in fact, it is working so well, it is extraordinary. For 25 years it has been working and we have had some of the best successes we have ever had.

The farmer will say, well, how come you want to change it? You say, well, the Attorney General says that his men fight among themselves and they can do better to stop fighting. He is going to say, how much does he make? You say, well, he makes about $100,000 a year, and the men who work for him and are fighting among themselves make about $80,000.

The farmer is going to look at you and, Senator, I don't know what kind of answer you would give to him. That is the kind of question we have here today. We are talking about a lot of buzz words—coordination, and so forth. Is it working? It is certainly working. We can't go backwards. We have got to go forward. It is time to think big.

Thank you.

[The prepared statement of Mr. Vaira follows:]

STATEMENT OF PETER F. VAIRA

BEFORE THE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
UNITED STATES SENATE
COMMITTEE ON GOVERNMENT AFFAIRS

On June 20, 1989, I testified before the Subcommittee on Criminal Justice of the Commitee on the Judiciary of the United States House of Representatives regarding the merger of the Organized Crime Strike Forces into the various United States Attorneys' Offices around the country. I would like to incorporate, by reference, that statement, a copy of which is attached.

In my testimony today, I will supplement my testimory before the House and comment upon Attorney General Thornburgh's formal announcement that he intends to carry out the merger.

Under the Attorney General's merger plan, the Strike Force would be transferred into the United States Attorneys' offices. All Strike Force attorneys would become Assistant United States Attorneys, to be hired and promoted by the United States Attorney. The head of the unit would be selected by the United States Attorney.

The United States Attorney's authority to select the Head of the Strike Force will itself weaken the Strike Forces as a national program. The person picked by the United States Attorney to head the unit will most likely be from the local area. I question whether that person will likely have any training in prosecuting organized crime cases. That person will become another Department Head in the United States Attorney's office, to be transferred within the office as personnel demands require.

Expertise in the organized crime area surely will dwindle as the department heads leave the office or are promoted. Department heads in the United States Attorneys' offices consisting of 30 assistants or less generally turn over every year to fifteen months. In larger offices, the turnover is more frequent. A statistical reality is that there will be a complete changeover of the leadership of Strike Force units at least every two years.

The rotation would be even more drastic with the personnel within the units. The current Presidential Drug Task Force units in the United States Attorneys' Offices are a good example of the rotation policy. Assistant United States Attorneys constantly rotate through the drug units, as assistants are promoted or leave the office. It is fair to assume that the personnel practices will be the same in the Strike Force units. The skill and expertise in organized crime cases would decrease within a year as new, inexperienced assistants are transferred into the group.

It is a fact of life that newly appointed United States Attorneys bring with them into the office persons they want as their own supervisory personnel. Unlike the present Strike Forces, which are unaffected by changes of United States Attorneys, appointments of new United States Attorneys who, theoretically, have four-year terms, will, most likely, bring about a change in the organized crime unit's leadership as well. This change will rarely bring more experience to the job. One can imagine the composition of the strike Force units two years from now when even the Attorney General may have left office, and the current United States Attorneys have moved on.

As a result of the Thornburgh plan, more matters that are only tangentially classified as organized crime and are of purely local interest will be investigated by the organized crime unit. The classification of organized crime cases now is carefully monitored by the United States Attorney and the Department of Justice in Washington. Under the new system, it is unrealistic to think that, if the United States Attorney and his department head want to pursue a matter using Strike Force time and personnel, that the Department in Washington is going to prevent them from doing so, except in the most extreme circumstances.

The Attorney General has stated that the merger will end bickering between Strike Forces and United States Attorneys. This is true. What the merger will do, however, is increase the now-common turf fights among United States Attorneys. Organized crime cases are usually indicted as a result of investigations conducted in several different federal districts. Information is pooled from different locations. Indictments are brought in the district which is the best venue for the prosecution. It is naive to think that United States Attorneys and their hand-picked supervisors will accede to the prosecution of a major case in some other district when the case could be indicted in their own. Once again, there will be a battle over publicity and prosecution. Rarely are these disputes settled in a way that benefits the most efficient prosecution.

The Attorney General contends that the proposed national Organized Crime Council will set priorities and evaluate the work against organized crime. This is not a new concept. Such an organization currently exists; however, it has been permitted to become inactive by Department of Justice leadership and the leadership of the various agencies. The organization must be revitalized by Presidential Order because many agency heads do not answer to the Attorney General and have their own agendas.

For example, in the early 1970's, the Commissioner of Internal Revenue decreed that the IRS would nearly remove itself from the Strike Forces and downgrade its criminal enforcement program. The Attorney General was powerless to stop that initiative.

As an aside, I have read recently that William Bennett, the drug czar, and his staff are dismayed by the intensity of the turf wars among federal agencies. These battles will continue, and the United States Attorneys will be powerless to stop them until the agencies are given their marching order by the President, the only person who can give an order to the top officer of an agency.

Under the Attorney General's program, twenty Strike Force attorneys will be transferred to Washington, D.C. to help coordinate the battle against organized crime and to fly into areas to assist U.S. Attorneys with major cases. A similar program operated from the Department of Justice when I joined the Organized Crime Section in 1968. It was not effective then, and it will not work now. Regional Strike Forces were opened to take the place of such a program. It has been my experience as a United States Attorney and as a Strike Force Chief that, except in rare occasions, these visiting firemen are totally inefficient. On a good week, such personnel usually arrive on Monday, noon, and depart on Thursday evening or early Friday morning. This is considered a long week.

When Mr. Thornburgh leaves office, this group of attorneys will become another gray, faceless section in the Department of Justice with little direction or purpose.

The Attorney General contends that the merger will facilitate coordination with State and local officials. Ample evidence can be presented to this Committee that the Strike Forces traditionally have been far more successful in working with local officials than have United States Attorneys' Offices. Such coordination is a major part of the Strike Force Chief's job. He or she is evaluated on how well this task is performed. There is none of the local rivalry between the Strike Force and local officials that often exists between the United States Attorney and the local elected officials.

The Strike Force is meant to be a national program. It must have a national agenda prepared and executed by persons who are not tied to local geographic lines. This requires national coordination. The Department of Justice must face up to the fact that national problems demand national attention; decentralization and localization of the Strike Forces defeats this objective.

STATEMENT OF
PETER F. VAIRA
BEFORE THE
SUBCOMMITTEE ON CRIMINAL JUSTICE
of the
COMMITTEE ON THE JUDICIARY
of the
UNITED STATES HOUSE OF REPRESENTATIVES
on the
PROPOSED MERGER OF THE ORGANIZED CRIME STRIKE FORCES
INTO THE VARIOUS UNITED STATES ATTORNEYS' OFFICES
JUNE 20, 1989

STATEMENT OF PETER F. VAIRA
ON THE PROPOSED MERGER OF ORGANIZED CRIME STRIKE FORCES INTO THE VARIOUS UNITED STATES ATTORNEYS' OFFICES

Attorney General Thornburgh has proposed merging the Department of Justice Organized Crime Strike Forces with the United States Attorneys' offices.

As you may know, this merger has been proposed numerous times since 1972 by different U.S. Attorney groups and rejected each time.

I have served as the United States Attorney for the Eastern District of Pennsylvania (Philadelphia) for five years as well as the Attorney-in-Charge of the Chicago and Philadelphia Strike Forces. I am familiar with the arguments on both sides of this question. While in the Department of Justice, I participated in management studies each time the merger was proposed.

The proposal, although always made by U.S. Attorneys, is really a symptom of a larger management problem; that is the ability of the Department of Justice to coordinate complex investigations of interstate criminal organizations.

The U.S. Attorney is appointed by the President after being proposed by the local U.S. Senator. Only the President can fire the U.S. Attorney. The United States Attorney is all-powerful in his or her district - probably more powerful than the Attorney General. Criminal syndicates, however, do not respect judicial district borders. They operate across state lines; indeed across the country.

The coordination of an investigation of such organizations cannot be accomplished by one U.S. Attorney. He or she does not have any authority to coordinate an investigation or indict a case in the district of another, equally powerful presidential appointee. The battles of U.S. Attorneys over major multi-district cases are very common.

There is an absolute need to coordinate such investigations by a central authority to ensure that the best possible cases are brought in the best district. Attorney General Robert Kennedy, who had no patience for bureaucracy, established the Strike Forces in 1962 with this purpose in mind.

A good example is the major case, code named "Pendorff" which was brought by the Strike Force in Kansas City in 1984. Indicted and convicted were organized crime leaders from Chicago, Milwaukee, Cleveland, Las Vegas and Kansas City. Investigations were conducted in all those cities. Wire taps were installed in

Chicago, Missouri, Kansas and Milwaukee. The investigation was coordinated by the Strike Forces in Chicago, Kanssas City, Las Vegas and Cleveland. It was truly a coordinated, nationwide effort. Such an investigation and the resulting one trial could not have been coordinated and brought by one or several U.S. Attorneys.

If the Strike Forces were not fulfilling a need in the Department of Justice structure, they would have withered and died long ago. But instead, they have been very successful, especially in the past five years. What reason now to get rid of them except a turf fight that really masks a basic management problem.

It is said that the U.S. Attorney's office in the Southern District of New York is very successful with its own in-house Strike Force. The Southern District, like the city of New York, is unique and cannot be used as a comparison. Most of the organized crime cases brought in the Southern District involve organized crime activity which took place within the city of New York. Investigations are generally centered in the district. There are far more Assistant U.S. Attorneys in New York than in any other office. That office can delegate numerous attorneys to work only on one case for years at a time. Such conditions do not exist in other U.S. Attorneys' offices. However, it should be noted that the Southern District needed information gathered by Strike Forces to bring the recent civil case against the Teamsters Union.

If the Strike Forces are merged into the U.S. Attorneys' offices, they will exist in name only after two years. A U.S. Attorney always needs experienced attorneys to work on priority (hot) cases such as local political corruption. If the U.S. Attorney is given the power to designate who works in the Strike Forces, it is only a matter of time until the best and most experienced attorneys will be working on the "hot" cases and younger, less experienced attorneys will be assigned to develop organized crime cases that require years of work and may be brought in another district.

It has been my experience as U.S. Attorney that any task force that is situated in the U.S. Attorneys' office under the U.S. Attorney's control eventually is canabalized for the best personnel for use on local matters.

The Strike Forces are not without their faults, but these are management problems. Strike Forces should not be fighting with the U.S. Attorney for existing cases. Strike Forces should be concentrating on investigations of corruption of major economic forces in the United States. These cases are generally beyond the physical capacity of the individual U.S. Attorney. For example, there are entire industries in the United States that are under the domination of organized crime. There are narcotics cartels operating out of Mexixo and South America that have operational budgets larger than Fortune 500 companies. The Strike Forces need to concentrate on these type of cases. The Strike Forces need long-range planning goals. They need more coordination of multi-investigative agency efforts.

In summary, the Department of Justice is a national organization. Like any national company, it must delegate duties for local national and international tasks to meet the problems of the marketplace. It cannot abandon this role to a local turf fight.

Cochairman NUNN. Thank you very much. I thank all of you for your testimony. I have two real questions here. One is—and you have touched on it, Mr. Vaira, at the end of your testimony—about the drug task forces that now exist. We have heard this morning from the Attorney General several different times and from some of the questions that we are facing a new organized crime element now. It is not the same traditional families.

I understand that. I have had hearings 6 years ago about the newly emerging organized crime groups. It was my impression that the strike forces knew that, and they were not tied to simply prosecuting traditional organized crime. Am I wrong in that impression? Are the strike forces out there doing nothing but prosecuting what we call, quote, "traditional organized crime?"

Mr. VAIRA. Well, you are right about that, Senator. We knew about those organized crime emerging families—the Japanese. I always mispronounce it, the Yakazu, or something like that. There is a sort of a junior black Mafia. There are some Koreans, Vietnamese.

They knew about it and wanted to do it, but I must tell you, Senator, they were terrified. The strike forces wouldn't dare touch that because they are terrified of it because they would get their hands slapped. There is an unwritten rule that you must find traditional organized crime.

As the next group of strike force chiefs come up here, ask them, what if you came up with some idea like that? You would get your hand slapped immediately and be told that that is none of your business; you stay in organized crime. I would be very surprised if you could.

Sure, they could do that. Organized crime is certainly expanding out on the West Coast, especially, but no strike force chief in his right mind would have tried to attempt that because he would get in trouble immediately. It is a management problem.

Cochairman NUNN. Mr. Heymann.

Mr. HEYMANN. They certainly are doing nontraditional organized crime now, and drug cases, Senator Nunn. But I think your other panelists can describe that better than I can, particularly Mr. O'Sullivan.

Cochairman NUNN. Let me ask this question to anyone on the panel who would like to answer it, and that is the idea of having the Washington-based roving specialist in organized crime going from one jurisdiction to the other as needed, which is part of the Attorney General's plan. How do you view that, anyone on the panel who would like to give an opinion on that?

Mr. VAIRA. That was the concept that was started when I was there when Mr. Muellenberg—in fact, Mr. Muellenberg used to travel back and forth, going out. It didn't work then; it is not going to work now. No U.S. attorney is going to be happy with some fellow from Washington who is going to blow in at Tuesday morning and leave Thursday afternoon.

It has been my experience as a U.S. attorney and as a strike force chief that those visiting firemen are totally inefficient. What will happen—and I neglected to mention this—what will happen is that a couple of years from now, perhaps this U.S. attorney will be gone; this Attorney General will be gone. Most of the U.S. attorneys will be gone, and all the positions will have changed and we will have a completely different organization with next to no experience whatsoever. And all that will be left is that gray section of 20 lawyers in Washington, DC, who will supposedly come out and help you. I find that a totally terrible picture.

Cochairman **NUNN**. Mr. Muellenberg, how do you view it?

Mr. **MUELLENBERG**. Well, I certainly agree with Mr. Vaira. When I started my career in the Department of Justice, I was, in fact, one of those traveling attorneys and, oddly enough, my city was Pittsburgh. I would sit in Washington with my colleague and gather all the FBI reports and whatever else was available to us and make an outline of what the organized crime picture in that district was, along with some recommendations as to what should be done in terms of grand jury investigations and possible leads.

We would be like traveling salesmen. We arrive and meet with the U.S. attorney and the FBI and everybody else, and say, well, here is the plan; we will back in a month to see how it has been implemented. And, of course, nothing ever happened.

It is really that kind of an experience that led people like Henry Petersen to finally say, well, look, I mean the problem is out there; it has to be addressed. Instead of traveling all over the place all the time, let us just stay there for a while, and that is really where the strike force concept came from.

And make no mistake about it. I opened up the strike force in Detroit, I opened up the strike force in Cleveland, I worked in Miami, I worked in Manhattan. But, certainly, in the early strike forces, you arrived in a city with the intelligence available to you and you said, there is a problem here. And the immediate response you would get from the FBI and from the U.S. attorney is, if there were corruption in this city, if there were infiltration in the labor movement by organized crime, we would know about it and we would do something about it.

Well, nothing was being done about it, and after we were there for a couple of years, or perhaps longer, things began to show that indeed we were right all along, and this is what this program has been all about and, obviously, I feel very strongly about it.

Cochairman **NUNN**. Senator Kennedy.

Senator **KENNEDY**. Thank you, Mr. Chairman. I want to commend the whole panel. I think you make the case about as well on an issue as we have heard around here. I had only one question and Senator Nunn asked it. It really sprang from the testimony of the Attorney General when he said that today we find that traditional elements of organized crime are changing their tactics and new criminal organizations and techniques are emerging which require new approaches.

I think you have responded well to the question. I don't know if there is anything in addition. It is my perception, reviewing the record, that Attorney General Thornburgh made up his mind on this issue a long time ago, clearly, but tags it on the fact that there are sort of new elements out there, and I think you have probably responded to that in response to Senator Nunn's question. I don't know if there is anything, in addition, you want to comment on in response to his comments, that the strike forces haven't really spotted these kinds of trends.

Cochairman NUNN. Thank you, Senator Kennedy.

Do any of you have any other comments you would like to make at this point?

[No response.]

Cochairman NUNN. We thank you so much for your cooperation. Thank you.

Our next panel is composed of eight very distinguished and experienced people, and we will, I understand, have some of them on one side of this issue and some of them on the other: the Honorable Robert Morgenthau, district attorney, New York County, and former U.S. attorney for the Southern District of New York; the Honorable Robert Bonner, U.S. District Judge, Central District of California, and former U.S. attorney for the Central District of California; Mr. Eades Hogue, an attorney in a law firm now, and former strike force chief, New Orleans; Mr. Jeremiah T. O'Sullivan, who is the former strike force chief for New England, and former U.S. attorney for the District of Massachusetts; Mr. James Harmon, former Executive Director of the President's Commission on Organized Crime; Mr. Douglas P. Roller, former strike force chief, Cleveland and Chicago; Mr. Lynn Slaby, president, National District Attorneys Association; and Mr. David Helfrey, who is the former strike force chief in Kansas City.

Gentlemen, we appreciate all of you being here. I don't know whether there is any kind of order that has been submitted to you this morning, but I would ask each of you to summarize, and perhaps this time we will start again from the left and move across.

Mr. Morgenthau, we recognize you first.

Senator KENNEDY. Mr. Chairman, I would like to recognize Jeremiah O'Sullivan, who has been the New England Strike Force Chief and has done a superb job, paricularly, in the Angiulo case, a very complicated and difficult one. Mr. O'Sullivan is someone who is very highly regarded.

I know others as well on this panel, but I want to recognize, in particular, Mr. Morgenthau. We have differences on this issue, but he has been a resource for this committee and other committees on issues involving law enforcement over a long, long period of time. I have had the opportunity to talk with him recently about the whole issue of the drug program. He has testified on that issue over in the House and has probably got as good an insight into the challenges that we are facing on that issue as anyone in the country.

So, although we differ on this one issue, he has had a very distinguished career and I also want to join in welcoming him here today.

Cochairman NUNN. We have a very distinguished panel and we welcome all of you here this morning. We are sorry that we are not going to have as much time as we would like to explore the views in depth, if you could, each of you, summarize your position in about 4 or 5 minutes, it would be very helpful.

Mr. Morgenthau.

STATEMENT OF A PANEL CONSISTING OF ROBERT M. MORGENTHAU, DISTRICT ATTORNEY, NEW YORK COUNTY, AND FORMER U.S. ATTORNEY, SOUTHERN DISTRICT OF NEW YORK; L. EADES HOGUE, ATTORNEY, LEMLE, KELLEHER, KOHLMOYER, DENNERY, HUNLEY, MOSS & FRILOT, AND FORMER STRIKE FORCE CHIEF, NEW ORLEANS, LA; HON. ROBERT C. BONNER, U.S. DISTRICT JUDGE, CENTRAL DISTRICT OF CALIFORNIA, AND FORMER U.S. ATTORNEY, CENTRAL DISTRICT OF CALIFORNIA; JEREMIAH T. O'SULLIVAN, ATTORNEY, CHOATE, HALL & STEWART, AND FORMER STRIKE FORCE CHIEF, NEW ENGLAND, AND FORMER U.S. ATTORNEY, DISTRICT OF MASSACHUSETTS; JAMES D. HARMON, JR., ATTORNEY, BOWER & GARDNER, AND FORMER EXECUTIVE DIRECTOR, PRESIDENT'S COMMISSION ON ORGANIZED CRIME; DOUGLAS P. ROLLER, ATTORNEY, ROOKS, PITTS & POUST, AND FORMER STRIKE FORCE CHIEF, CLEVELAND, OH; LYNN C. SLABY, PRESIDENT, NATIONAL DISTRICT ATTORNEYS ASSOCIATION; AND DAVID B.B. HELFREY, ATTORNEY, GUILFOIL, PETZALL & SHOEMAKE, AND FORMER STRIKE FORCE CHIEF, KANSAS CITY, MO

Mr. MORGENTHAU. Thank you, Senator. I am very pleased to have the opportunity to testify here today. I would have been equally happy to appear before this committee 20 years ago when Attorney General Mitchell, Deputy Attorney General Richard Kleindienst, and Assistant Attorney General in Charge of the Criminal Division Will Wilson took away from the U.S. attorney's office jurisdiction over organized crime and racketeering.

I think we all know that Federal judges are, almost by definition, dispassionate and fair, and I would like to read a comment on the record made by Judge Lloyd McMahon in dismissing a strike force case.

He said, "The Strike Force, which, of course, is not the U.S. attorney's office, is probably the worst idea in law enforcement that was ever conceived by, in fact, probably the worst Attorney General the Government has ever had." Now, of course, I wouldn't make an intemperate remark like that, but I think that is typical of the view that many people have had of the strike force concept.

As everyone in this room knows, it was not until Robert Kennedy became Attorney General in 1961 that the Government launched a serious, organized campaign against organized crime. As Byron White, then the Deputy Attorney General, then observed, Robert Kennedy "was not interested in crimes of desperation, but in the cynical, big-time organized crime. He regarded organized crime as a conspiracy of evil."

That zeal to break up the syndicates has shaped my prosecutorial priorities both as U.S. attorney in the Southern District of New York from 1961 to 1970 and as district attorney for New York County for the past 14 years.

I have always had a unit in my office dedicated to prosecuting organized crime, but it was a unit integrated within the office; it was a unit of senior prosecutors who worked closely with investigators. It called on the resources of the civil division and the appeals unit, for example, to accomplish their aims, and a unit which shares information freely with colleagues who are prosecuting narcotics traffickers, truck hijackers, and security swindlers.

In my office, the U.S. attorney's office in the Southern District, it was called the special prosecutions unit, and it started in 1961, well before the creation of separate strike forces, and it was highly successful.

Without the benefit of a wiretap law, a use immunity statute, a witness protection program, or a RICO statute, we convicted 125 members of organized crime, along with scores of their associates.

Our efforts extended well beyond New York crime families. We convicted members of Pittsburgh's LaRocca family, Boston's Patriarca family, Cleveland's Scalish family, Buffalo's Maggadino family, and the French Corsican underworld. We made many labor cases—International Brotherhood of Teamsters. We convicted 125 employees of the Internal Revenue Service.

During that decade, the decade of the 1960's, the U.S. attorney's office, without a strike force, but with a dedicated unit, made more cases than all of the strike forces put together. Now, that came to an end in 1969 when a strike force was set up in the Southern District of New York which had exclusive jurisdiction over organized crime, labor racketeering, and official corruption, and it took 7 years until that momentum was regained, until that unit was integrated into the U.S. attorney's office.

I think that the Attorney General deserves great credit for having the courage to say we made a mistake. It is not often that the Federal Government is willing to cede jurisdiction once they have it. I think the Attorney General deserves great credit for saying, look, these offices should be within the U.S. attorney's office. There should be one person, and I think that is clearly the statutory intention, going back 200 years, that the U.S. attorney in the district be the chief law enforcement officer and that he be responsible for prosecution of all crimes within that district, and that that not be fragmented.

The very concept of organized crime has greatly expanded in the last decade, and you have heard about that. The result is that a strike force has no clear jurisdiction. What should be handled by the U.S. attorney and by the strike force? There is no definition to guide people, so that leads to confusion for everybody.

I think the Organized Crime Drug Enforcement Task Force shows that that can be effectively operated within the U.S. attorney's office, and that is the way it should be. I think that merger promises much better sharing of information within the U.S. attorney's office.

It is not enough that the strike force chief and the U.S. attorney are cordial. One person must know what everyone is doing, what wiretaps are up, what witnesses have been flipped, what surveillances are underway, for law enforcement to be most effective.

Finally, the U.S. attorney's office has a civil division and they handle civil RICO cases and forfeiture cases, and that can't be done within the strike force as an independent agency.

I think to say to the U.S. attorney that we are going to take 20 percent of your business away from you—I mean, it is like saying to the drug czar, you know, you can't handle cocaine cases. I don't think, logically, it makes any sense.

Again, as Robert Kennedy taught, if we do not on a national scale attack organized criminals with weapons and techniques as effective as their own, they will destroy us. I think the Congress deserves great credit for providing new weapons and programs that have strengthened organized crime prosecutions.

But independent strike forces are counterproductive. Too often, they are recipe for bureaucratic bickering, fragmented organization, and inadequate supervision. For that reason, I urge this committee to support the proposed consolidation, and I thank you for the opportunity of appearing here today.

[The prepared statement of Mr. Morgenthau follows:]

TESTIMONY OF ROBERT M. MORGENTHAU, DISTRICT ATTORNEY, NEW YORK COUNTY, BEFORE THE UNITED STATES SENATE COMMITTEE ON THE JUDICIARY

SEPTEMBER 8, 1989

I appear before you today to testify in support of the Attorney General's proposal for consolidation of the Organized Crime and Racketeering Strike Forces into the United States Attorneys' Offices.

At the outset, I wish to emphasize that my remarks are not intended in any way to be critical of the men and women who have worked so conscientiously in the Strike Force offices around the country. Indeed, their record of accomplishments is impressive. My point is simply that history and logic teach that even more will be accomplished if the Strike Forces are merged into the United States Attorneys' Offices. As I hope to persuade you this morning, consolidation promises far more than administrative savings -- it promises better law enforcement.

I.

Let me begin with some history. As everyone in this room knows, it was not until Robert Kennedy became Attorney General in 1961 that the federal government launched a serious, organized campaign against organized crime. As Byron White has observed, Robert Kennedy "was not interested in crimes of desperation but in the cynical big-time organized crime operators; he regarded [organized crime] as a conspiracy of evil."

That zeal to break up the syndicates has shaped my prosecutorial priorities. As United States Attorney from 1961 to 1970, and as District Attorney for New York County for the past

14 years, I have always had a unit dedicated to prosecuting organized crime. But it has been a unit integrated within the office. It has been a unit in which senior prosecutors work closely with experienced investigators. A unit whose attorneys regularly call on the resources of the Office -- on the Civil Division and the Appeals Unit, for example -- to accomplish their aims. And a unit which shares information freely with colleagues who are prosecuting narcotics traffickers, truck hijackers, or securities swindlers. I would not have it any other way.

Let me read to you from the 1962 Annual Report of the United States Attorney's Office for the Southern District of New York:

> [Our] Special Prosecutions Unit ... is responsible for investigating and prosecuting cases in the areas of organized crime, racketeering, and corruption. It serves ... as a focal point for the channelling of information in those areas, and as a point of contact for federal and local law enforcement agencies which are active in those fields. The activities of the Unit have been closely coordinated with those of other units in the Department of Justice in its campaign against organized crime... and with those of various investigatory arms of the Federal government. Since organized crime and racketeering pervade all areas of criminal activity, the Special Prosecutions Unit also maintains a continuing liaison with the work of the other special units of the office -- Narcotics and Securities Fraud.

The Special Prosecutions Unit came into existence well before the creation of separate Strike Force offices, and it was highly successful. Without the benefit of a wiretap law, a Use Immunity statute, a Witness Protection Program, or RICO, we convicted 125 documented members of organized crime along with scores of their associates. Among those brought to justice were Carmine Galante, then underboss of the Bonnano family; Vincent Rao, Anthony "Tony Ducks" Corallo, and Carmine Tramunti, then the hierarchy of the Luchese family; Joseph Valachi and dozens of Genovese family members; and Joseph Armone, Arthur Tortorello, and Carmine Lombardozzi, then major players in the Gambino family.

The unit's efforts extended well beyond the New York crime families. Also convicted were members of Pittsburgh's La Rocca family, Boston's Patriarca family, Cleveland's Scalish family, Buffalo's Maggadino family, and the French Corsican underworld. Many of the prosecutions involved corrupt labor practices. We convicted officials of the International Brotherhood of Teamsters; the Hotel, Restaurant and Luncheonette Workers; the Buildings Services Employees International; the International Brotherhood of Electrical Workers; the Sheet Metals Workers; and the Plumbers Union. [I have attached a list of the significant labor racketeering cases as well as a list of all members of organized crime prosecuted in the Southern District of New York from 1961 to 1969.]

I report these successes to underscore that organized crime is more effectively prosecuted from within a United States Attorney's Office. The Attorney General's merger plan contemplates units like the Special Prosecution Unit operating in 23 United States Attorneys' Offices. They will be assisted when necessary by a cadre of senior Strike Force Attorneys based in

Washington. This was the original Strike Force model in 1961, and it remains mine today.

II.

Logic also supports the consolidation of the Strike Forces into the United States Attorneys' Offices. First, the very concept of organized crime has greatly expanded in the last decade. The crime group under investigation is now as likely to be a Chinese Youth Gang, a Caribbean posse, or a South American drug cartel, as it is to be a Cosa Nostra family. The result is that the Strike Forces have no clear jurisdiction. Most have become a second prosecutor's office within their district, targeting the same crimes and crime groups as the United States Attorney's Office. The competition that ensues is not healthy. As the National District Attorneys' Association has noted, consolidation "will eliminate time- and resource-consuming turf battles which promote confusion rather than coordination of prosecutive missions."

Second, recent developments in federal narcotics enforcement argue in favor of consolidation. Since 1983, a major portion of the battle against organized crime has been waged by Organized Crime Drug Enforcement Task Forces (OCDETF) operating in United States Attorneys' Offices. Merging the Strike Forces into the United States Attorneys' Offices will foster closer communication between OCDETF investigators and those investigating more "traditional" racketeering activities. A racketeer may shakedown a contractor in the morning, loanshark in the afternoon, and peddle dope in the evening. Surely, it makes precious little sense for those investigating him to work independently.

Third, and closely related, merger promises better sharing of information. Any seasoned prosecutor knows that intelligence is the lifeblood of successful investigations and that separate offices means fragmented information. It is not enough that the Strike Force Chief and the United States Attorney are cordial. One person must know what everyone is doing -- what wiretaps are "up"; what witnesses have been "flipped"; what surveillance are underway -- for law enforcement to be most effective.

Fourth, by making available the resources of the United States Attorney's Office, merger promises to strengthen organized crime cases. To fight organized crime in 1989 means to rely on civil remedies -- Asset Forfeiture and Civil RICO -- as well as criminal sanctions. In virtually every United States Attorney's Office, there are now civil attorneys expert in the workings of these complex provisions. With merger, these resources will be only a telephone call away. Fighting organized crime also means combatting the legal tactics of experienced criminal defense counsel. Organized crime prosecutors will benefit enormously from the skills of the United States Attorney's appeals unit in drafting wiretap applications, responding to suppression motions, and handling appellate claims.

One more personal note: A United States Attorney is charged with the enforcement of the federal criminal law in his or her jurisdiction. Central to that mission is the prosecution of organized crime. Such cases require the most careful, day-to-day supervision and promise, if handled successfully, immense benefits for the community. For that reason, I would not serve as United States Attorney if organized crime prosecutions in my district were removed from my control. For me, being United States Attorney without responsibility for organized crime would be tantamount to being drug czar without responsibility for cocaine.

III.

Let me conclude by emphasizing that organized crime must remain a top priority for federal law enforcement. As Robert Kennedy taught, "[i]f we do not on a national scale attack organized criminals with weapons and techniques as effective as their own, they will destroy us." The Congress deserves great credit for providing the new weapons and programs that have strengthened organized crime prosecutions. But independent Strike Forces are not necessary to the fight. Too often they are a recipe for bureaucratic bickering, fragmented information, and inadequate supervision. For that reason, I urge you to support the proposed consolidation, and I thank you for the opportunity to speak to you this morning.

UNITED STATES ATTORNEY'S OFFICE, SOUTHERN DISTRICT OF NEW YORK

1961 - 1969

ORGANIZED CRIME - CONVICTIONS.

A

GENOVESE FAMILY

NAME	Date of Indictment or Conviction	Offense	Sentence or Status
CAPOREGIME:			
Sam Accardi	1964	Narcotics and Bail Jumping	15 years
Peter DeFeo	1968	Conspiracy to kickback from union welfare fund	Trial Pending
Vincent Alo	1969	Obstruction of Justice	Trial Pending
BUTTONS:			
Ralph Conti	1964	Wagering and Excise Tax Evasion	1 year
Carlie DePietro	1962	Narcotics	20 years
Vincent Mauro	1962	Narcotics	15 years
Frank Caruso	1962	Narcotics	15 years
John Verra	1961	Possessing and Selling of Spirits	2 years
	1961	Obstruction of Justice	1 year and 1 day

Salvatore Granello	1964	Failure to File Income Tax Returns	2 years
	1968	Kickback on Union Pension Funds	Trial Pending
	1969	Kickback on Union Pension Funds	Trial Pending
	1969	Bail Jumping	Trial Pending
Joseph Cataldo	1969	Interstate Transportation of Stolen Securities	Awaiting Sentence
Joseph Pagano	1964	Bankruptcy Fraud	5 years
Philip Cuccia	1964	Theft from Interstate Shipment	4 years
Michael Maiello	1962	Narcotics	15 years
Joseph Valache	1962	Narcotics	15 years
Joseph Lapi	1964	Narcotics	7 years
Peter Variano	1964	Wagering and Excise Tax Evasion	1 year and 4 months
Joseph Calandruccio	1967	Interstate Travel--Extortion	Fugitive -- probably murdered

Pat Borgese	1963	Accepting wagers and failure to file tax	3 months
Alphonse Confessore	1969	Convicted of Mail Fraud--Credit Cards	Murdered awaiting sentence
Vincent Pacelli	1964	Narcotics	18 years
Frank Sacco	1963	Interstate Transportation of Stolen Prop.	7 years
Joseph Pucci	1968	Mail Fraud	2 Years Suspended Sente
Michael A. Nicoline	1964	False Statement	6 months
Anthony Santoli	1966	Interstate Gambling	Awaiting Trial
John Manfredonia	1968	Perjury	1 year and 6 months
James Battaglia	1967	Interstate Gambling	Fined
Thomas Seccamanie	1967	Interstate Gambling	Fined
Alexander DiBrizzi	1968	Embezzlement of Union Funds	Suspended Sentence: 2 years probation
Louis Pascocello	1962	Interstate Gambling	9 months
Edward Lanzieri	1968	Conspiracy to Obtain Kickbacks from Union Welfare fund	Awaiting Trial
	1969	Conspiracy to Obtain Kickbacks from Union Welfare fund	Awaiting Trial

John A. Masiello	1969	Bribery of Post Office Employees and Conspiracy	Trial Pending Jan. 1970
John Papalia	1962	Narcotics	10 years
John A. Masiello,Jr.	1969	Bribery of Post Office Employees and Conspiracy	Trial Pending Jan. 1970
	1969	Draft Evasion	Awaiting Trial
Joseph Manieri	1962	Interstate Gambling	1 Year and 6 months
Arthur Repola	1964	Narcotics	15 years.. Murdered
Michael Yanicelli	1965	Wagering Tax	1 Year and 3 months
Anthony Porcelli	1962	Narcotics	15 years
Mathew Palmieri	1962	Narcotics	20 years
Sal Marino	1969	Extortion	7 years and 6 months
Robert Guipponi	1962	Narcotics	20 years
Adam Salerno	1967	Narcotics	5 years
Frank Sallerno	1967	Narcotics	Died before Trial
Stephen Radochia	1968	Bank Fraud	6 Years
Frank DelPurgatorio	1968	Possession of Stolen Property	2 years
Donald Alfano	1969	Extortion and Wire Fraud	1 year and
James Borgese	1969	Extortion and Wire Fraud	3 years and 6 months

Anthony Petrozelli (alias Tony Black)	1969	Extortion and Wire Fraud	3 years
Michael D'Angelo	1969	Theft from Interstate Shipments	Awaiting Trial
Rocco Scopoletti	1962	Narcotics	10 years
Vincent Soviero	1964	Narcotics	Fugitive
Anthony Verzino	1964	Narcotics	12 years
Lawrence Iarozzi	1969	Narcotics	15 years
Anthony DiLorenzo	1969	Interstate Transportation of Stolen Securities	10 years
Rudolph Izzi	1969	Interstate Transportation of Stolen Securities	8 years
Thomas Farranto	1962	Possession of Stolen Bonds	1 year
Ralph Masciola	1967	Theft from Interstate shipments	10 years
Teddia Riviello	1967	Theft from Interstate shipments	

GAMBINO FAMILY

NAME	Date of Indictment or Conviction	Offense	Sentence or Status
BUTTONS:			
Patsy Crapanzano	1964	Receipt of Taft Hartley Payoffs	Fined $25,000 3 year term suspended
Stephen Frammauta	1964	Narcotics	8 years
Michael Viscardi	1964	Narcotics	5 years
Joseph Armone	1964	Narcotics	15 years
Hugo Rossi	1962	Narcotics	Citizenship revoked; deported.
Arthur Tortorello	1964	Income Tax; Mail Fraud	1 year; probation revoked
	1964	STock Fraud	1 year
	1969	Theft of Securities	Awaiting Trial
Louis DeFilippo	1963	Conspiracy to Violate Tax Laws	8 months
John Lombardozzi	1964	Interstate Transportation of Stolen Securities	2 years
Martin Carbone	1964	Interstate Transportation of Stolen Securities	Awaiting Trial
Peter Castellana	1964	Bankruptcy Fraud	5 years

Gondolfo Sciandra	1964	Bankruptcy Fraud	1 year and 6 months
Joseph Covello	1965	Interstate Gambling	3 years
Michael Scandifia	1965	Interstate Transportation of counterfeit securities	6 years
	1967	Interstate Transportation of counterfeit securities	Awaiting Trial (probably murdered)
Nicholas Melillo	1967	Extortion	Awaiting Trial
Carmine Lombardozzi	1969	IRS Twin Double	Awaiting Trial
Arnold Romano	1966	Bail Jumping	5 years
	1966	Narcotics	30 years
Dominick Romano	1969	Narcotics	20 years
Carmine Guanti	1969	Narcotics	17 years
Leonard Conforti	1967	Conspiracy to Sell stolen bonds	Sentence Suspended
Michael Conforti	1967	Conspiracy to Sell stolen bonds	Sentence Suspended
Steven Insalaco	1967	Conspiracy to to sell stolen bonds and Treasury checks	2 years

LUCHESE FAMILY

NAME:	Date of Indictment of Conviction	Offense	Sentence or Status
CONSIGLIERI:			
Vincent John Rao	1965	Perjury	5 years
CAPOREGIME:			
John Ormento	1962	Narcotics	40 years
Anthony Corallo	1962	Obstruction of Justice	2 years
	1967	Conspiracy to violate anti-racketeering statute	3 years
	1969	Interstate travel for the purpose of extortion	Awaiting Sentence
Carmine Tramunti	1964	Contempt of Court (Refusal to answer questions before a GJ after having been granted immunity)	Served 3 months
James Plumeri	1963	Income Tax Evasion	2 years and 6 months
	1968	Conspiracy to obtain kickback from union welfare fund (5 separate indictments	Awaiting Trial
	1969	Conspiracy to obtain kickback from union welfare fund	Awaiting Trial

John Dioguardi	1966	Bankruptcy Fraud	5 years
BUTTONS:			
Salvatore Maneri	1962	Narcotics	15 years
Victor Panica	1961	Narcotics	5 years
Angelo Tuminaro	1961	Bail Jumping	2 years and 8 months
Angelo Loicano	1962	Narcotics	20 years
Anthony DiPasqua	1961	Narcotics	Fugitive: now awaitin trial
Anthony DiPalermo	1964	Narcotics	12 years and 6 months
Frank Dioguardi	1966	Narcotics	15 years
Anthony Ciccone	1962	Narcotics	Fugitive
Daniel J. Motto	1968	Conspiracy to violate anti-racketeering statute	2 years
Anthony Castaldi	1964	Contempt of Court (Refusal to answer qeestions before a GJ after having been granted immunity)	Served 3 months
Andimo Pappadio	1964	Contempt of Court (Refusal to answer questions before a GJ after having been granted immunity)	Served 2 months

Salvatore Shillitani	1964	Contempt of Court (Refusal to answer questions before a GJ after having been granted immunity)	Served 3 month
Thomas Plumeri	1966	Bankruptcy Fraud	3 years
Vincent Potenza	1967	Conspiracy to transport stolen travelers checks	5 years
Americo Spagnuolo	1967	Conspiracy to transport stolen travelers checks	5 years
Anthony Mirra	1962	Narcotics	20 years
	1962	Assault on a federal officer	2 years

BONNANO FAMILY

NAME	Date of Indictment of Conviction	Offense	Sentence or Status
BOSS:			
Joseph Bonnano	1966	Obstruction of Justice	Ill; awaiting trial
UNDERBOSS:			
Carmine Galante	1962	Narcotics	20 years
CAPOREGIME:			
Salvatore "Bill" Bonnano	1965	Held in Civil Contempt of Court	Served 3 month
	1969	Mail Fraud--Credit Cards	Awaiting Sentence
BUTTONS:			
Salvatore Giglio	1961	Narcotics	Fugitive
Peter Notaro	1968	Mail Fraud--Credit Cards	Awaiting Sentence

PROFACI - MAGLIOCCO - COLOMBO

NAME	Date of Indictment or conviction	Offense	Sentence o Status
CAPTAIN:			
Leo Carlino	1963	Tax Evasion	1 year and 1 day
Nicholas Forlano	1967	Wagering Tax	1 year
BUTTONS:			
Alfred Sanantonio	1963	Forgery on US Government bonds	8 years (murdered)
Lorenzo Lampasi	1967	False Statement FHA loan	Awaiting Trial
Maurice Savino	1967	Conspiracy to transport stolen travelers checks and possession of travelers checks	2 years and 6 months
Nicholas BeBiase	1967	Conspiracy	2 years

RAYMOND L. S. PATRIARCA FAMILY---BOSTON--PROVIDENCE

NAME	Date of Indictment or Conviction	Offense	Sentence or Statu
BUTTONS:			
Frank Ferrara	1968	Counterfeit--Credit Cards	Awaiting Sentence
Joseph Napolitano	1968	Counterfeit--Credit Cards	Awaiting Sentence

JOHN SCALISH FAMILY - CLEVELAND

Name	Date of Indictment or Conviction	Offense	Sentence or Status
Anthony Spitaleri	1967	Conspiracy Counterfeit Bills	5 years
Carl Lovano	1967	Conspiracy Counterfeit Bills	3 years and 6 months

MAGGADINO FAMILY -- BUFFALO

NAME	Date of Indictment or Conviction	Offense	Sentence or Status
Salvatore Maneri	1962	Narcotics	15 years
Vito Agueci	1962	Narcotics	15 years
Albert Agueci	1962	Narcotics	Murdered

JOHN SABASTIAN LA ROCCA FAMILY - PITTSBURGH

Name	Date of Indictment or Conviction	Offense	Sentence or Status
Boss			
John Sabastian	1969	Union Kickbacks	Awaiting trial
Caporegime:			
Gabriel Mannarino	1969	Union Kickbacks	Awaiting Trial
Buttons:			
Frank Amato	1969	Union Kickbacks	Awaiting Trial
Frank Rosa	1969	Union Kickbacks	Awaiting Trial
Joseph Sica	1969	Union Kickbacks	Awaiting Trial

ORGANIZED CRIME - DETROIT

Name	Date of Indictment or Conviction	Offense	Sentence or Status
Caporegime:			
Dominick Corrado	1969	Union Kickbacks	Awaiting Trial

The following members of the French Corsican underworld have been apprehended and convicted in the U.S. on narcotic violations

NAME	Date of Indictment or Conviction	Offense	Sentence or Status
Etienne Tarditi	1961		10 years
Rene Bruchon	1964		20 years
John Claude LeFranc	1966		20 years
John Hean Nebbia	1966		20 years

During the past five years the following members of the French Corsican underworled have been arrested and convicted as a result of information supplied by this Office to the French authorities by means of Rogatory Commissions--the facts made available to the French authorities established that these individuals were direct sources of supply of heroin to the United States:

Leon Chevallier

Paul Mondoloni

Paul Chastagnier

John Jean Jehan

Gilbert Coscia

Jacques Courbet

Paul LaCour

Bernard Ricozzi

John Giacobetti

Cochairman Nunn. Thank you, Mr. Morgenthau.
Mr. Hogue.

STATEMENT OF L. EADES HOGUE, ATTORNEY, LEMLE, KELLEHER, KOHLMOYER, DENNERY, HUNLEY, MOSS & FRILOT, AND FORMER STRIKE FORCE CHIEF, NEW ORLEANS, LA

Mr. Hogue. Yes, Mr. Chairman, thank you so much. It is an honor to be here today, and like Mr. Morgenthau, I guess you can tell from my accent I am not from New York. I am from New Orleans, LA.

I want to show you the future in the next couple of minutes, and I can do that and show you what is going to happen because of the Attorney General's plan to dismantle the strike forces, and I can do that by resorting to telling you about the past and what happened when this same man, because of his vindictiveness, closed the New Orleans strike force in 1976.

At that time, I was a young strike force attorney down in Tampa, FL. At that time that strike force was closed—up until that time, there had never been a successful prosecution of alleged organized crime boss Carlos Marcello. That office was shut down for 2 years.

The only reason that office was reopened was because of the outcry and the pressures and the concerns of the citizenry of my city, New Orleans, LA, particularly the Metropolitan Crime Commission there that is still in existence, and they have written you all a letter urging you again not to allow these strike forces to be dismantled.

In 1976, and now, this Metropolitan Crime Commission consisted of this type of folks: businessmen, reputable civic leaders, old-line New Orleaneans who knew the history of our city and our State and the unfortunate corruption that has existed in our area for a long, long time.

Because of that commission's insistence, that Organized Crime Strike Force was reopened.

I was sent over from Tampa to New Orleans. In 1979, we began what we called the BRILAB investigation. It was a three-city investigation—Los Angeles, New Orleans, and Washington, DC—concentrating on alleged activities of Marcello and others. That investigation took over a year, the undercover aspect alone.

I supervised myself, with no assistance from outside sources other than strike force chiefs and people assigned to my office, 8 solid months of electronic surveillance. It was the first time that there had ever been court-authorized electronic surveillance of Carlos Marcello, and the Justice Department and the U.S. attorneys had been prosecuting that man, or investigating that man, I should say, for years and years and years.

Now, at that time when I came to New Orleans, I had already prosecuted three criminal RICO cases myself. So all I am telling you is that at that point in time, what the strike force concept brought to New Orleans was an experienced cadre of prosecutors who had conducted in the past, in Florida and elsewhere, lots of electronic surveillance.

We were there and we were present to conduct that investigation. There were two convictions of Marcello, one in New Orleans and one in Los Angeles. It is my honest belief that that investigation would not have been handled, and could not have been handled at that point in time by the U.S. attorney's office, not because it wasn't a good office—it was—but simply because of the overwhelming day-to-day, routine cases that, by law, they must investigate and prosecute.

So by the past that I have just described, I hope I am showing you what the future is going to hold. In 5 or 10 years, these strike forces, set up along the same lines as they exist now, are going to be brought back into existence because this decentralized program that the Attorney General espouses absolutely won't work.

The strike force concept, a national concept, led out of Washington, will and has been successful.

I urge you all to do everything you can to make certain that this program stays in shape and stays active, because you know who is going to suffer in the final analysis—the American people. Louisiana will suffer, every State in the Union will suffer.

Thank you.

[The prepared statement of Mr. Hogue follows:]

STATEMENT OF

L. EADES HOGUE
FORMER STRIKE FORCE CHIEF, NEW ORLEANS, LOUISIANA

BEFORE THE
COMMITTEE ON THE JUDICIARY
and
COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

JOINT HEARING ON
STATUS OF THE DEPARTMENT OF JUSTICE
ORGANIZED CRIME STRIKE FORCES PROGRAM

* * *

Mr. Chairman, distinguished Members of the Joint Committees, and Ladies and Gentlemen:

I am Eades Hogue of New Orleans, Louisiana. I appreciate the opportunity to appear before your distinguished Committees and testify concerning Attorney General Thornburgh's plan to disband Organized Crime Strike Forces.

With a flick of his bureaucratic pen, Attorney General Thornburgh seeks to disband the Organized Crime Strike Forces and, thus, return the Justice Department's war on organized crime to a prosecution style of the 1950s, which was a disjointed, decentralized, and ineffective operation. Mr. Thornburgh's plan is equivalent to the Army's at the end of World War II, insisting that the Marine Corps be disbanded because of its successes achieved and acclaim received.

I believe that, unfortunately, the Attorney General's plan to disband the Strike Forces is not being made to enhance efforts against organized crime, but, rather, is being undertaken because of his personal antipathy toward the Strike Forces, harbored ever since he was a United States Attorney in Pittsburgh in the 1970s.

After his appointment as Assistant Attorney General for the Criminal Division during the Ford years, the Attorney General oversaw the closing of several Strike Force offices across the country, including New Orleans. At the time the New Orleans Strike Force closed, in the mid-1970s, I was a Strike Force attorney assigned to the Tampa office of the Miami Strike Force in Florida. Because of concerted efforts by various interested persons and civic organizations, including the Metropolitan Crime Commission of New Orleans, enough pressure was brought to bear on the Justice Department to force it to re-open the New Orleans Strike Force office in 1978. I was transferred from Tampa to New Orleans in the summer of 1978 as Deputy Chief of the newly activated New Orleans Strike Force. Subsequently, I became Strike

Force Chief and oversaw the New Orleans portion of the massive Brilab investigation, which focused on various activities of reputed organized crime figure, Carlos Marcello of New Orleans.

This investigation involved the day-to-day participation of Strike Force attorneys in New Orleans, Los Angeles, and Washington, D.C., along with F.B.I. offices throughout the country. An extensive and exhaustive undercover investigation, utilizing undercover F.B.I. agents and a former Marcello associate, was conducted for over one year. The Strike Force office, under my supervision, conducted eight months of court-authorized electronic surveillance consisting of microphone coverage of the Marcello office and telephone coverage of various office and residential telephone lines. The Strike Force offices involved were able to commit extensive attorney manpower to this major investigative effort. As a result of those efforts, convictions against Marcello and others were obtained in New Orleans and Los Angeles, with convictions against others in Houston. Marcello's convictions were the first significant convictions obtained by the Justice Department against him after years of well-known prosecutorial efforts by both U.S. Attorneys and the old Strike Force office.

The Brilab electronic surveillance of Marcello was the first ever directed against him by the Justice Department despite ongoing investigations extending over many, many years.

Needless to say, I am proud of the New Orleans Strike Force efforts in the Brilab case. It is my opinion that the Brilab success could not have been achieved without the presence of the Strike Force in New Orleans. It devoted itself solely to the investigation of alleged organized crime activities and with the support of the vast resources of the Organized Crime and Racketeering Section in Washington, D.C., was able to achieve notable successes during the early 1980s. While the U.S. Attorney's office in New Orleans is a very good one, that office did not have the attorney manpower resources, experience, and support to conduct a massive investigation like Brilab during the early 1980s. With present Drug Task Force demands on the U.S. Attorney's office, a fully staffed Strike Force office remains the best vehicle for Department enforcement efforts against organized crime in New Orleans.

Not only did the Organized Crime and Racketeering Section perform its mission successfully over the years, it demonstrated a certain esprit de corps and aggressiveness needed to successfully prosecute complex cases found in the organized crime area. Strike Force attorneys, while paid less than Assistant U.S. Attorneys on the average, tended to stay longer in Government service and achieved considerable expertise in conducting long-term investigations utilizing sophisticated techniques, such as electronic surveillance. Further, Strike Forces were directed and closely controlled by the section's hierarchy in Washington, D.C. No one knowlegeable about the workings of the Criminal Division can contradict me in saying that men such as Kurt Muellenberg, Dave Margolis, and Mike Defeo were outstanding prosecutors and administrators. They coordinated multi-district investigations and reduced intrasection friction between Strike Force offices with a minimum of difficulty. The success of the section over the years best reflects the competence of these men.

I understand that the Attorney General claims that his plan for disbanding the Strike Forces will enhance efforts against organized crime and cites as proof the success of the Justice Department's Drug Task Forces. This so-called Task Force success is demonstrated every day in the press as we learn that an entire generation of American youth stands to be lost because of rampant drug problems.

In closing, the Attorney General's decision to disband the Strike Forces will prove to be one of the costliest errors in the history of Federal law enforcement. Because of the natural competitive rivalries between Strike Forces and U.S. Attorneys that have arisen over the years and become a part of Justice Department folklore, a vindictive decision is being made to shut down the program. No one knowledgeable about law enforcement can question the good sense of the Strike Force concept. If problems occur because of personality conflicts, this can be dealt with by the Justice Department and always has been without seriously jeopardizing its mission in fighting organized crime.

I urge you to do everything within your power to ensure that the present Strike Force concept continues to be fully utilized by the Justice Department and that the various Strike Force units remain intact and adequately staffed to continue the important battle against organized crime.

Thank you.

Cochairman Nunn. Thank you, Mr. Hogue.
Judge Bonner.

STATEMENT OF HON. ROBERT C. BONNER, U.S. DISTRICT JUDGE, CENTRAL DISTRICT OF CALIFORNIA, AND FORMER U.S. ATTORNEY, CENTRAL DISTRICT OF CALIFORNIA

Judge Bonner. Thank you, Mr. Chairman. Let me start off with the premise that the U.S. attorneys' offices have been the principal field offices of the Department of Justice for the past 200 years. Something over 98 percent of all Federal criminal cases are developed and prosecuted by the U.S. attorneys' offices around the country. A very small percentage of cases, indeed, is handled and prosecuted by the Department of Justice generally or by the organized strike force field offices.

Whatever the initial premises were for the strike forces and their creation back in the late 1960's—and those were, in essence, that there would be experienced Federal prosecutors manning these strike force offices, and also the premise that U.S. attorneys' offices at that point in time were incapable or unwilling to handle long-term investigations such as organized crime cases—certainly, Senators, those premises are no longer valid today. I doubt that they ever were.

The U.S. attorneys' office for the past decade or two have been handling significant, long-term international and national narcotics distribution cases involving wiretaps, involving RICO charges, involving continuing criminal enterprise charges.

They have been handling long-term undercover cases in the areas of corruption. Greylord has been cited as an example. It is certainly not the only example. They have also—the U.S. attorneys' offices have been involved in the long-term development of cases in the white-collar area, including defense procurement fraud, securities fraud, and these types of things.

In fact, the major U.S. attorneys' offices in this country are institutions in their own right that are viewed as, and quite rightly so, the finest prosecutive offices in the country. It is these U.S. attorneys' offices into which, under the Attorney General's proposal, the strike forces would be merged and strike force units created.

Indeed, like Mr. Morgenthau said with respect to the Southern District of New York, prior to the creation of a strike force in Los Angeles in or about 1970—prior to that, there had been a special prosecutions unit of the U.S. attorney's office in Los Angeles which was made up of some of the best and elite assistant U.S. attorneys and was largely devoted to developing and prosecuting organized crime cases.

Indeed, perhaps the most significant organized crime case that has ever been brought in Los Angeles was developed by that unit, developed and prosecuted by the U.S. attorney's office in Los Angeles, and that is the case involving the Frontier Hotel Club. It involved, among others, the conviction of the head of the Detroit Mafia family, Mr. Zirelli.

After the creation of the strike force unit in Los Angeles, after that period of time, the U.S. attorney's office withdrew because the U.S. attorney's office no longer had jurisdiction or responsibility for organized crime cases, and they withdrew from that effort and the special prosecutions unit was disbanded.

There is no question in my mind, given the capabilities of the U.S. attorneys' offices, that the merger of the strike forces—not the elimination, but the merger of these strike forces into and as part of—as a specialized unit as part of U.S. attorneys' offices around the country, will significantly strengthen and revitalize our efforts, the Department of Justice's efforts, against organized crime.

It is a structural or management issue; it has been from the inception of these strike forces 20 years ago. And by that I mean that in Los Angeles, in Chicago, in the other major cities in which these strike forces are located, by the creation of a separate strike force field office, separate and apart from the U.S. attorney and the U.S. attorney's office, you have two chief Federal law enforcement officials.

That never makes sense, and that is what you have in Los Angeles, that is what you have in Chicago, that is what you have in each one of these 14 cities in which there are strike force field offices located.

A U.S. attorney has some responsibility, unquestionably, over these strike forces, but he has no authority to control them, and I know that from my own recent experience as having been the U.S. attorney in Los Angeles.

The inherent problem and why this continually and from time to time comes up as an issue is the fact that it is impossible to determine what is a U.S. attorney's office case as opposed to what is a strike force case. It is impossible to determine that, and that determination must be made in each case very early on in the investigation of the case.

The reason that is so very, very difficult is that the definition that guides the determination as to whether a case is going to be handled by a U.S. attorney's office or by a strike force is found, by the way, in the latest guidelines, which are of 1976 vintage, and it simply defines organized crime, and I am quoting here. The definition of organized crime that guides whether a case is a strike force or U.S. attorney's office case is, and I quote, "The term 'organized crime' for purposes of these guidelines includes all illegal activities engaged in by members of the criminal syndicates operative within the United States."

The very inability, Senators, to be able to determine what is an organized crime case that ought to be handled by the strike force as opposed to a case that is an organized crime case that ought to be handled and should be handled by the U.S. attorney's office has led to countless jurisdictional battles. But even more alarming than the jurisdictional battles is the lack of accountability in one official in each one of these Federal districts that we have.

I just want to give you two quick examples, if I could, and that is just to pose to Senator Nunn or Senator Kennedy, either one of you, if you were presented with a situation out in the field with a case that involved the Wah Ching, which is a Chinese organized crime organization and dealing in narcotics, is that a case that ought to be handled by the strike force in Los Angeles or is that a case that ought to be handled by the U.S. attorney's office?

Nobody can tell under these guidelines. These guidelines are broad enough to argue that it is included; it should be a strike force case. On the other hand, one could argue that the U.S. attorney's office ought to handle that kind of case, either because it involves narcotics or because it involves an emerging Asian-based organized crime group.

But the problem is it is there, and even more troubling beyond the turf battles is the accountability question, and that is this. Who is it in Los Angeles or Chicago or in the other cities in which these strike forces exist—who is the person that the Attorney General looks to as being accountable to him for how organized crime, including emerging organized crime groups, is being addressed and being handled?

And I submit to you, so long as you have this separate organization, with the vague guidelines that are the basis for making these separations, you will not have the kind of accountability that I think an Attorney General of the United States ought to have so that he can look to one person, whether that is the strike force or the U.S. attorney, but look to one person in the field in a district to answer to him as to what is being done with respect to organized crime in that particular district.

I have just a few other brief points.

Cochairman NUNN. Judge, we are going to run out of time, I am afraid, for other panelists. I hate to rush you, but we——

Judge BONNER. I will be very brief. I do want to say this, that it has been suggested here by, I think, just about everybody that has appeared before this panel that the strike forces have been an unqualified success. I, for one, take exception to that.

I think people like Mr. O'Sullivan—there are certain strike forces that have done an exceptional job, but the record of all strike forces is a little more checkered than that.

I think it would be difficult—and I, frankly, would not want the committee to take my word as a former U.S. attorney on this, but I think it would be difficult to get an assessment from any impartial observer in Los Angeles, whether on the Federal District Court, whether in the private practice of law, anybody that is knowledgeable, that the Los Angeles Strike Force, has been successful. I think that would be incredibly charitable to describe it as such.

It has not been a terribly productive office over the years either recently or in the past. There are frequent complaints—these are not from me, but from Federal agencies—in terms of getting cases that are presented to the strike force prosecuted. And the few cases that are prosecuted in Los Angeles by the strike force frequently end up in some sort of disaster or another.

Now, I don't mean to criticize or suggest here, Senators, that there aren't dedicated people in the strike forces—there are—that there aren't good and experienced attorneys in the strike forces; of course, there are. But, still, looking at, for example, the strike force in Los Angeles, which is the one I am most familiar with, other than the chief of that strike force, the other attorneys in that office have under 2 years' experience as Federal prosecutors. These are not experienced people and they are being asked to undertake substantial cases.

By bringing the strike force unit into the U.S. attorney's office, you will undoubtedly strengthen, both operationally and otherwise, the efforts against organized crime in Los Angeles and in other cities where you have the strike forces.

Cochairman **Nunn**. Judge, I don't want to interrupt you, but I think I am going to have to at this point because we have got five more speakers here and we are really running out of time.

Judge **Bonner**. I appreciate that, Senator, and I have concluded my comments. Thank you for the time.

[The prepared statement of Judge Bonner follows:]

STATEMENT

OF

ROBERT C. BONNER
UNITED STATES DISTRICT JUDGE
CENTRAL DISTRICT OF CALIFORNIA

BEFORE

SENATE JUDICIARY COMMITTEE

CONCERNING

INTEGRATION OF STRIKE FORCE FIELD OFFICES
INTO U.S. ATTORNEYS' OFFICES

ON

SEPTEMBER 8, 1989

Mr. Chairman and Members of the Committee:

I am pleased to be able to address the Senate Judiciary Committee regarding the Attorney General Thornburgh's proposal to incorporate the 14 Organized Crime Strike Force field offices into United States Attorneys' offices. At the time of the merger, each United States Attorney in the affected districts will establish an Organized Crime (or "Strike Force") Unit in his office of a strength equal to or greater than the pre-existing Strike Force. Thus, there will be no dimunition in the number of attorneys or resources devoted by the Department of Justice to organized crime.

Some have suggested that the Justice Department is backing off from its commitment to vigorously attack organized crime. Nothing could be further from the truth. In reality, the Attorney General's reorganization will bolster the Department's efforts to root out organized crime, whether entrenched or emerging. Although there are always some who will oppose any change, the merger of the Strike Force field offices should be see for what it is: a sound management step calculated to further the Justice Department's efforts in the battle against organized crime by bringing to bear the experience and strengths of the major U.S. Attorney's offices.

The merger of the Strike Forces into U.S. Attorneys' offices will have at least four beneficial effects:

First, it will revitalize and strengthen the Justice Department's efforts against organized crime by adding the experience and resources of the U.S. Attorneys' offices to the battle.

Second, it will result in significant operational and administrative efficiencies, including cost savings to the government. (For example, with a merger the current duplicative law libraries and administrative support can be eliminated.)

Third, it will eliminate two separate, and often competing, Department of Justice offices within the same federal district.

Fourth, it will assure accountability by reverting to the sound management principle that there be only one chief federal prosecutor in each federal district.

HISTORY OF U.S. ATTORNEY'S OFFICES AND THE STRIKE FORCES

Since 1789, the United States Attorney in each federal district has been charged with the responsibility for prosecuting all federal crimes committed in his district. Congress has codified this responsibility by providing that "each United States Attorney, within his district, shall prosecute all offenses against the United States." 28 U.S.C. Sec. 547. Each U.S. Attorney reports to and is accountable to the Attorney General of the United States. Nearly all federal criminal cases (over 98%) are developed and prosecuted by the U.S. Attorneys' offices. Thus, since the creation of the Department of Justice in the 1870s, the U.S. Attorneys' offices have been the Justice Department's principal field offices for the prosecution of federal criminal cases.

There are currently 14 Strike Forces scattered about the country, all of which are in major cities which have large U.S. Attorney's offices. By comparison to the U.S. Attorneys' offices, these Strike Force field offices are relatively small, each staffed by 4 to 15 Justice Department attorneys. For example, five attorneys are presently assigned to the Los Angeles Strike Force. Strike Force attorneys report to the Justice Department's Organized Crime Racketeering Section in Washington, D.C.

The concept of Main Justice-controlled Strike Force field offices, separate from U.S. Attorneys' offices, dates back 20 years. Several Strike Forces were established under former Attorney General Ramsey Clarke in 1968. Most of them, however, were established by former Attorney General John Mitchell early in the Nixon Administration as a result of a 1968 campaign promise by Richard Nixon to create more Strike Forces. 1/ All of the Strike Forces were intended to be temporary, or, as former Assistant Attorney General Henry Petersen put it in the early 1970s, the "Strike Force [field offices] won't exist in perpetuity."

One of the main problems of the Strike Forces is that they are out of sync with the historic organization of the Department of Justice. Because the United States Attorney in each federal district is charged with the responsibility for prosecuting all federal crimes in his district, the Strike Forces are periodically at odds with the United States Attorney, and considerable time and effort has been wasted on needless jurisdictional or "turf" battles regarding, for example, what constitutes an "organized crime" case. Even more alarming, given the amorphous nature of the term "organized crime," is the lack of clear-cut accountability in one federal official in a district for prosecuting organized crime figures.

1/ Appendix 1 is a list of the Strike Forces and the year each was established.

Most of the jurisdictional tension stems from the vaguely worded definition of "organized crime" used to delineate a Strike Force from a U.S. Attorney's office case. 2/ These determinations have to be made in the early stages of an investigation. Some specific examples of this definitional problem include: Is a narcotics case involving members of the Wah Ching, an Asian organized crime group, a case which should be handled by the Strike Force or by the U.S. Attorney's office? What if the case involves extortionate credit transactions rather than narcotics, -- does that make a difference? What if it involves a massive securities fraud in which an associate of an LCN family member is peripherally involved? In short, determinations regarding whether a potential case should be handled by the Strike Force or by the U.S. Attorney's Office are difficult to make at the early stages of an investigation, and they invite unseemly conflicts and disagreements.

Given this definitional vagueness and the separation of the Strike Force from the U.S. Attorney's office, there is an even more worrisome problem -- the hiatus in accountability. Who, for example, is responsible for, say, targeting and prosecuting Asian organized crime figures? Who is responsible for targeting and prosecuting emerging organized crime groups?

2/ That definition is: "The term 'organized crime' . . . includes all illegal activities engaged in by members of the criminal syndicates operative within the United States."

Merger of the Strike Forces into U.S. Attorneys' offices will not only eliminate counterproductive "turf" battles, it will establish responsibility and accountability clearly in one official in each district.

THE ORIGINAL PREMISES FOR STRIKE FORCES ARE NO LONGER VALID

The original arguments supporting the Strike Forces were that they would be staffed by experienced, veteran federal prosecutors and that the U.S. Attorneys' offices were incapable of handling long-term organized crime cases.

Preliminarily, I note that, before the establishment of the Los Angeles Strike Force in the early 1970s, the United States Attorney's Office in Los Angeles had a very active, elite unit largely devoted to the development and prosecution of traditional organized crime cases. Indeed, one of the most significant organized crime cases ever prosecuted in Los Angeles, -- the Frontier Hotel case, was handled entirely by the U.S. Attorney's Office. For a description of the case, see United States v. Polizzi, 500 F.2d 856 (9th Cir. 1974).

After the establishment of a Strike Force in Los Angeles, the Los Angeles United States Attorney's office withdrew from the handling of traditional organized crime cases. It is doubtful that a Strike Force in Los Angeles, separate from the U.S. Attorney's Office, was ever warranted. But former President Nixon promised more Strike Forces and so more were created.

1. U.S. Attorneys' Offices Regularly Handle Long-Term, Complex Criminal Cases

No one can look at the record of the larger U.S. Attorneys' offices over the past two decades and state that these U.S. Attorneys' offices are incapable of developing and handling long-term, complex criminal cases. Indeed, the U.S. Attorneys' offices into which the Strike Forces would be merged, in Los Angeles, Chicago and elsewhere, have a demonstrated track record for handling long-term, difficult, protracted white collar, corruption and narcotics cases. Witness, for example, the Camarena murder prosecution, the Pisces and Polar Cap drug money laundering cases, and the defense industry kickback and procurement fraud cases brought by the Los Angeles U.S. Attorney's Office; the Greylord corruption cases and the recently indicted commodities fraud cases being handled by the Chicago U.S. Attorney's Office; and the Mafia "Commission" case and the Levine-Boesky-Milken insider trading cases out of the U.S. Attorney's Office in New York.

Aside from U.S. Attorneys' offices' demonstrated track record for handling long-term, difficult federal prosecutions, there have been two additional developments since the Strike Forces were created that support their merger into U.S. Attorneys' offices.

2. Merger in the Southern District of New York

The first of these developments was the integration of the Manhattan Strike Force into the U.S. Attorney's Office for the Southern District of New York which occurred in 1975. The merger in the Southern District of New York has been an unqualified success. Although several of the Strike Force field offices have brought significant prosecution in the past several years, no office has been as imaginative, successful or prolific as the Organized Crime Unit of the U.S. Attorney's Office for the Southern District of New York.

3. Creation of the Organized Crime Drug Enforcement Task Forces

The second significant development was the creation in 1982 of the Organized Crime Drug Enforcement Task Forces (OCDETF). There are 13 regional OCDETFs, and they are staffed by Assistant U.S. Attorneys and operated within, not outside of, U.S. Attorneys' offices. Since 1982, there have been hundreds of long-term investigations and thousands of prosecutions of members of major drug trafficking organizations. The success and productivity of drug task forces in targeting, developing and prosecuting major narcotic and money laundering organizations is beyond question. The task forces, staffed with dedicated Assistant U.S. Attorneys, have demonstrated the capability of U.S. Attorneys' offices to successfully and effectively address organized criminal activity.

A comparison of the OCDETF results with those of the Strike Forces is instructive. For example, in FY 1986, OCDETF attorneys obtained 2,058 convictions as opposed to 392 for the Strike Forces nation-wide. Put differently, the conviction rate per OCDETF attorney is nearly three times greater than that of a Strike Force attorney.

4. Strike Force attorneys do not stay with the Department of Justice longer than Assistant U.S. Attorneys

The Strike Forces' attorneys are not an experienced cadre of "career" federal prosecutors as envisioned in the late 1960s. Rather, the most experienced and productive federal prosecutors in the Department of Justice are Assistant U.S. Attorneys. Although inadequate compensation makes attrition a problem throughout the Justice Department, the fact is that the Assistant U.S. Attorneys stay with the Department longer than Strike Force attorneys. Indeed, except for its chief, none of the Strike Force attorneys in Los Angeles have been federal prosecutors for more than two years.

One of the central premises of the Strike Force concept was that the Strike Force field offices would be staffed by "career" federal prosecutors. If this premise was ever valid, it certainly no longer is. Today, many Assistant United States Attorneys see themselves as career prosecutors and career government lawyers. In fact, a direct comparison of the longevity levels of Strike

Force attorneys as compared to Assistant U.S. Attorneys assigned to Criminal Divisions in the districts in which the Strike Forces are located discloses that the Assistant U.S. Attorneys are the more senior. (See Appendix 2).

By way of longevity comparison, taking the fourteen (14) core Strike Force cities,[3] the average number of years in the Department for Strike Force attorneys is 5.57. The average number of years in the Department for the Criminal Division Assistant U.S. Attorneys in the corresponding 14 districts is 6.78 years, over one year more than their Strike Force counterparts. The Drug Task Force assistants in the U.S. Attorneys' offices in those 14 districts enjoy an average number of years in the Department of 6.21, also longer than the Strike Force average.

Even more important to enhancing the effort to combat organized crime, United States Attorneys' offices have many more experienced federal prosecutors than do the Strike Forces. Indeed, all U.S. Attorneys' offices in districts where Strike Forces are located have far greater numbers of experienced federal prosecutors than do the Strike Force offices. Although this is largely due to the size of U.S. Attorneys' offices, as opposed to significantly higher retention rates, it nonetheless underscores the ability of U.S.

3/ The fourteen (14) core cities are: Boston, Brooklyn (Kings), Buffalo, Chicago, Cleveland, Detroit, Kansas City, Las Vegas, Los Angeles, Miami, Newark, New Orleans, Philadelphia, and San Francisco.

Attorneys' offices to augment and enhance the organized crime effort by marshaling and assigning highly experienced Assistant U.S. Attorneys with proven capabilities to organized crime cases and units.

ADDITIONAL ADVANTAGES OF MERGER

Recruiting and Attorney Development

The Los Angeles Strike Force has found it difficult to recruit attorneys. The merger of Strike Forces into U.S. Attorneys' offices will assist in attracting and recruiting attorneys of the same caliber as those who apply to the United States Attorney's office. Indeed, most U.S. Attorneys' offices are magnets which attract some of the very best legal talent in the country.

Another major advantage of merger involves the training of federal prosecutors charged with developing and prosecuting organized crime cases. At present, new Strike Force attorneys have little opportunity to cut their teeth on less difficult federal criminal cases. Not surprisingly, newer Strike Force attorneys frequently do not have the skills to develop a major conspiracy case, to deal with difficult informant witnesses, to effectively utilize grand juries, and to try major federal criminal cases. In sum, because of the limited focus of the Strike Forces, new Strike Force attorneys are not able to gain significant trial experience with less difficult federal criminal cases. In sharp contrast, the

Criminal Divisions of the larger U.S. Attorneys' offices develop new Assistant U.S. Attorneys by initially assigning them the simpler and more routine federal criminal cases and progressively assigning more complex and challenging cases involving, *inter alia*, use of the grand jury as an investigative tool, the use of difficult informant and co-conspirator witnesses, and the like. A merger, then, has the distinct advantage of permitting the progressive development of federal prosecutors before assigning them to an Organized Crime Unit.

In addition, most Assistant U.S. Attorneys have tried numerous cases in federal district court. Assistant U.S. Attorneys know the "lay of the land" when it comes to picking juries and effectively dealing with the federal district judges. There is no substitute for this kind of experience. Because the Strike Forces have relatively few trials, many Strike Force attorneys are unable to acquire this invaluable experience.

Lastly, merger will help keep experienced and capable Assistant U.S. Attorneys with the government longer. Specialized units within Criminal Divisions of U.S. Attorneys' offices generally have an attraction to Assistants. The very existence of an active Organized Crime Unit within a United States Attorney's Office will provide additional opportunities and new challenges for experienced AUSAs. A merged Strike Force, then, would be a device for keeping experienced federal prosecutors with the government longer.

Efficiencies and Cost Savings

Consolidating Strike Forces into United States Attorneys' offices will unquestionably result in significant management, administrative and operational efficiencies.

First, the integration of the Strike Forces into the U.S. Attorneys' offices will result in an improved management system. Well recognized principles of sound management teach that there should be only one person ultimately responsible and accountable for federal prosecutions within each district and, under the historic organizaiton of the Department of Justice, that should be the United States Attorney. Integration will produce a better management structure. Indeed, such a structure is essential if United States Attorneys are to effectively coordinate with state and local law enforcement in the area of organized crime.

Second, in addition to improved management, merger will permit reduction of duplicative administrative, overhead and office expenses. 4/ The need for separate administrative support personnel would be eliminated. There would be no need to maintain and update separate libraries. In addition, travel costs in moving Strike Force attorneys to new offices, usually running several thousand dollars for each move, will be eliminated. Thus, merger will result in significant costs savings to the government.

4/ At present, all Strike Force field offices are housed separately, often in a separate building from the U.S. Attorneys' offices.

There will be substantial operational efficiencies as well. Where the number or complexity of organized crime cases require attorney support beyond the capacity of a U.S. Attorney's office Organized Crime Unit, additional Assistant U.S. Attorneys outside the Unit can be assigned to such cases. Because of their small size, the Strike Force field offices do not have this flexibility.

In addition, as the President's Commission on Organized Crime made clear, an important component in the fight against organized crime should include greater use of civil foreitures provisions under RICO. 5/ Inasmuch as considerable civil forfeiture expertise has been developed within Civil Divisions of U.S. Attorneys' offices, coordination and enhancement of the civil recoveries will be facilitated by merger. Under the present structure, civil forfeitures are rarely pursued by the Strike Forces in organized crime cases.

RESPONDING TO THE PERENNIAL ARGUMENTS OF THE ORGANIZED CRIME AND RACKETEERING SECTION

There are, of course, inevitable difficulties in changing an entrenched Washington-based bureaucracy, and the Organized Crime Strike Forces are no exception. The Organized Crime and Racketeering Section's Strike Force field offices have survived

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5/ See, President's Commission on Organized Crime, The Edge: Organized Crime, Business, and Labor Unions, May 1986, page 258.

despite numerous recommendations that they be merged with U.S. Attorneys' offices, starting with the Ash Commission report in 1970.

No analysis of the merits of merger would be complete without considering various arguments that have been advanced against merger of the Strike Forces into United States Attorneys' offices.

One argument that has been raised is that, in absence of Washington-controlled Strike Force field offices, United States Attorneys might shift attorney resources away from organized crime to other types of cases. Whatever dubious validity this argument might have had historically, it is obviated by the Attorney General's plan that Organized Crime Units be established and staffed by a number of dedicated Assistant U.S. Attorneys at least equal to the number of Strike Force attorneys positions transferred to the United States Attorneys' offices. These positions can be shifted away from organized crime cases only with the permission of the Attorney General. Merger of the Strike Forces, therefore, will not result in any diminution of the Department's effort to stanch organized crime.

A second argument has been that U.S. Attorneys' offices do not have the capability or inclination to develop and handle "complex" time-consuming organized crime cases. Major cases developed and prosecuted by U.S. Attorneys' offices through the OCDETFs and in white collar and other areas totally belie this argument.

A third argument is premised on the alleged "regional" nature of the Strike Forces. According to this argument, because certain Strike Force offices have responsibility for organized crime prosecutions in more than one district, merger into United States Attorneys' offices is not desirable. The "regional" argument against merger is specious. The fact is that nearly all Strike Force prosecutions are brought in the districts in which the Strike Force attorneys are physically located. With very few exceptions, United States Attorneys who do not have Strike Force attorneys stationed in their districts report that they never see Strike Force attorneys. Indeed, there is almost a total absence of prosecutions brought by Strike Forces in these districts.

When all other arguments fail, opponents of merger make the assertion that soemething dreadful will happen because United States Attorneys are politically appointed. Although unstated, the implicit premise underlying this argument is that an entrenched, Washington-controlled, "non-political" bureaucracy within the Department's Criminal Division is required to resist these "political" appointees. This argument is not only superficial, it represents the epitome of bureaucratic arrogance.

In the hierarchy of the Department, United States Attorneys are responsive to the will of the Attorney General. Even if arguendo this were not the case, by creating Assistant U.S. Attorney positions committed to organized crime (as proposed by the Attorney General), United States Attorneys will not be free to divert these Assistants to non-organized crime areas.

A fourth argument raised recently by opponents of merger is that U.S. Attorneys are not in their positions long enough to come to grips with and direct organized crime cases. It is clear, however, that U.S. Attorneys do oversee long-term narcotics, corruption and white collar crime cases. Moreover, during my 5 1/2-year tenure as the U.S. Attorney in Los Angeles, there were three different chiefs of the Los Angeles Strike Force.

Lastly, it has been suggested that there are frequent jurisdictional battles between U.S. Attorneys, and that these battles will affect organized crime cases. My own experience indicates otherwise. There were only a very small number of cases (less than half a dozen a year) where my office and another U.S. Attorney's office needed to discuss which office would prosecute a case. In all but one or two of those cases, the matter was quickly resolved by a phone call between me and my fellow U.S. Attorney. During my tenure as U.S. Attorney, I recall only two instances where I and a fellow U.S. Attorney had to ask Washington (Main Justice) to resolve a dispute as to which office would handle a particular matter.

CONCLUSION

Organized crime is and will continue to be one of the most serious law enforcement problems facing our nation. The question is how the organized crime program of the Department of Justice can best be structured to most ~~effectiv~~ely and efficiently combat traditional and emerging organized crime elements. In considering the best management structure for addressing this menace, I submit, as the merged approach in the Southern District of New York has already demonstrated, that this can best be done by merging the 14 remaining Strike Forces into U.S. Attorneys' offices. Current Strike Force personnel would become Assistant U.S. Attorneys and investigations would continue within Organized Crime Units attached to U.S. Attorneys' offices. The Organized Crime Units would continue to draw upon the expertise of the Organized Crime and Racketeering Section in Washington in much the same manner as U.S. Attorneys' offices now work with the Public Integrity Section on corruption matters.

In sum, having Strike Force attorneys join the United States Attorneys' offices will allow the Department to retain the benefits of the present program, but do so in a less costly, more efficient operation without the burden of jurisdictional disputes.

APPENDIX I

CITY	YEARS STRIKE FORCE ESTABLISHED	CURRENT STATUS
Detroit	1968	7 attorneys
Brooklyn	1968	14 attorneys
Philadelphia	1968	9 attorneys
Chicago	1968	13 attorneys
Miami	1968	15 attorneys
Newark	1969	10 attorneys
New York	1969	Merged into U.S. Attorney's Office, S.D.N.Y. in 1975
Boston	1969	10 attorneys
Buffalo	1969	7 attorneys
Cleveland	1969	8 attorneys
Los Angeles	1970	8 attorneys
St. Louis	1970	Closed, *circa* 1976
New Orleans	1970	4 attorneys
Pittsburgh	1970	Closed in 1976
Baltimore	1970	Closed in 1970s
San Francisco	1970	4 attorneys
Kansas City	1971	7 attorneys

Sometime in the mid-1970s, another Strike Force field office was established in Las Vegas. It currently has five attorneys.

APPENDIX II

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CRIMINAL DIVISION, DOJ STRIKE FORCE ATTORNEYS

WITH

A. CRIMINAL DIVISION ATTORNEYS IN UNITED STATES ATTORNEY OFFICES- ALL HAVING A POSITION DESCRIPTION NUMBER OF P129CRM1 FOR SUPERVISOR OR P129CRM8 FOR NON-SUPERVISOR.

B. DRUG TASK FORCE ATTORNEYS IN UNITED STATES ATTORNEY OFFICES.

STATEMENT: THIS COMPARISON IS RESTRICTED TO THE 27 CITIES WHERE THERE ARE CRIMINAL DIVISION, DOJ STRIKE FORCE ATTORNEYS, UNITED STATES ATTORNEY OFFICES, AND FOR THE MOST PART WHERE THERE ARE DRUG TASK FORCE ATTORNEYS

STRIKE FORCE CITY	AVERAGE YEARS IN DOJ	USA OFFICES	AVERAGE YEARS IN DOJ	DRUG TASK FORCE	AVERAGE YEARS IN DOJ
ATLANTA	9	GA ND	11	ATLANTA	9
BOSTON	4	MASS	6	BOSTON	4
BUFFALO	8	NY WD	8	BUFFALO	7
CAMDEN	7	NJ	4	CAMDEN	4
CHICAGO	8	ILL ND	6	CHICAGO	8
CLEVELAND	4	OHIO ND	8	CLEVELAND	5
DETROIT	6	MICH ED	6	DETROIT	5
FORT LAUDERDALE	7	FLA SD	7	FORT LAUDERDALE	*
HONOLULU	3	HAWAII	7	HONOLULU	5
HOUSTON	1	TEX SD	5	HOUSTON	5
KANSAS CITY	6	MO WD	13	KANSAS CITY	8
LAS VEGAS	4	NEVADA	4	LAS VEGAS	2
LOS ANGELES	4	CAL CD	7	LOS ANGELES	6
MIAMI	5	FLA SD	6	MIAMI	8
MILWAUKEE	4	WIS ED	@	MILWAUKEE	4
NEWARK	6	NJ	4	NEWARK	8
NEW HAVEN	8	CONN	12	NEW HAVEN	4
NEW ORLEANS	7	LA ED	7	NEW ORLEANS	5
NEW YORK (KINGS)	5	NY ED	4	NEW YORK (KINGS)	8
PHILADELPHIA	4	PA ED	5	PHILADELPHIA	8
PROVIDENCE	9	RI	7	PROVIDENCE	3
ROANOKE	7	VA WD	8	ROANOKE	*
ROCHESTER	4	NY WD	@	ROCHESTER	*
SAN FRANCISO	7	CAL ND	11	SAN FRANCISO	5
SAN JUAN	3	PR	7	SAN JUAN	*
SYRACUSE	10	NY ND	@	SYRACUSE	*
TAMPA	4	FLA MD	5	TAMPA	6

@THESE DISTRICTS HAVE ONLY GENERAL POSITION DESCRIPTIONS LISTED AND THEY COULD BE DOING EITHER CIVIL OR CRIMINAL WORK

*THERE IS NO DRUG TASK FORCE ATTORNEYS IN THESE CITIES

SOURCE: Data compiled by the Executive Office for United States Attorneys, Department of Justice, upon the request of the Attorney General's Advisory Committee.

Cochairman NUNN. Thank you very much.
Mr. O'Sullivan.

STATEMENT OF JEREMIAH T. O'SULLIVAN, ATTORNEY, CHOATE, HALL & STEWART, AND FORMER STRIKE FORCE CHIEF, NEW ENGLAND, AND FORMER U.S. ATTORNEY, DISTRICT OF MASSACHUSETTS

Mr. O'SULLIVAN. Thank you, Senator. I want to thank Senator Kennedy for his kind remarks and his great interest in this particular subject.

First, I think, since there is some reason for all of us to be on a panel together, I want to respond, I think, briefly to some of the points raised by Judge Bonner and then go on to some of the points that I think are essential to this that are found primarily in the Attorney General's remarks this morning and in his written statement to the committee.

The answer to how you define organized crime, if that is the issue about whether you dissolve a successful program or not, is an issue of definition that can be worked out very easily. I can give Judge Bonner a definition of organized crime that showed up starting in 1967 in the Oyster Bay conferences which were put together by a number of organized crime experts in order to come up with a definition of organized crime. There is an organized crime definition in the President's Commission on Organized Crime in 1967.

But I think the thrust of what Judge Bonner is saying is that somehow the agencies or people don't know who to go to when they have a problem that might be an organized crime problem, and the answer very simply is that in order for me, when I was a strike force chief, to open an investigation, I had to write what was called a case initiation report, in which I had to describe who I was investigating, what the organized crime basis was, what the objective of my investigation was.

And before I could go forward with that report, the U.S. attorney had to sign the report. And, so if, there is any question at the incipient stage of the investigation as to who should be investigating, the U.S. attorney has a piece of paper that he can refuse to sign and the investigation doesn't go forward. So I don't understand the complaint that there is some bifurcation in which neither side talks to each other. Everything goes across his desk.

Now, I have, perhaps like Pete Vaira and one other individual, now U.S. District Judge Edward F. Harrington, the unique status of having been both strike force chief and U.S. attorney.

As U.S. attorney, I was appointed after the incumbent U.S. attorney was forced to resign in a particularly difficult time in the office, and I was appointed by Attorney General Thornburgh. I have served large portions of my prosecutorial career in the U.S. attorney's office.

I was chief of the public corruption unit and I was chief of the major fraud unit in the U.S. attorney's office for a number of years. I think that I bring to this particular task some perception of the weaknesses and strengths of both agencies. And I also believe at this particular point in time, since I no longer have a vested interest, being in private practice—I think I bring some dispassion to the issue.

And I believe, at bottom, that it would be a terrible mistake, a mistake that we will pay for for years into the future, if the Attorney General's plan is allowed to go forward as it is currently structured.

The Attorney General has described his plan as nothing more than a bureaucratic and managerial issue rather than a substantive issue. I consider the issue of taking a program which is national and scope, and taking strike forces like the Boston Strike Force which has jurisdiction throughout New England and merging that into the District of Massachusetts U.S. attorney's office, and merging what is a regional and national effort into a local U.S. attorney's office, whose office does not go beyond the bounds of the State of Massachusetts, to be a substantive issue because the Patriarca family operates in Massachusetts, Rhode Island and Connecticut.

And I will tell you that the U.S. attorney in Massachusetts is not going to be investigating the Patriarca family in Connecticut. So I don't think it is a managerial and administrative issue; I think it goes right to the heart of the program.

Attorney General Thornburgh was right to praise his accomplishments as U.S. attorney in Pittsburgh in dealing with organized crime. But as I said in House hearings earlier this summer, I have not heard of a significant organized crime case having been brought in the Western District of Pennsylvania since Attorney General Thornburgh left as U.S. attorney in 1976.

Not a single RICO case, to my knowledge, has ever been brought against a sitting organized crime family that continues to exist in the Western District of Pennsylvania. I think that says something about whether there should be a strike force in the Western District of Pennsylvania.

Attorney General Thornburgh indicates that the reason for the merger is to do away with turf battles. Well, I read the New York Times every day and the turf battles that went on between the U.S. attorney in the Southern District of New York and the U.S. attorney in the Eastern District of New York, and the U.S. attorney in the Southern District of New York and the district attorney for Manhattan, who is sitting at the table here today, are legendary. I don't think that turf battles will go away if you have a merger.

The Attorney General points to what he says is the successful model, the OCDETF Program. Well, I am sure, Senators, that some of you at least are familiar with the record that last year the Congress at hearings, out of which grew the drug czar.

There was substantial criticism of the OCDETF model as having been a failure. As a matter of fact, I understand the President's renewed interest and this Congress' renewed interest in the issue of the narcotics problem in this country to be one that is bottomed in the fact that the drug program, investigative and prosecutive, hadn't worked to this point.

Pete Vaira, I think, touched on a statement that is submitted to this committee, and unfortunately he is not on the panel to testify today, although he is here—a statement submitted by Charles Blau.

Mr. Blau was the Deputy Associate Attorney General for all of the time that the OCDETF task force operated until the change of administrations this year. He was the Deputy Associate Attorney General running the OCDETF Program during all of the years of its existence.

Mr. Blau characterizes the program as one that is weak, decentralized, a failure in which he spent 50 to 60 percent of his time trying to correct turf battles going on between U.S. attorneys' offices. So if the Attorney General is holding out the OCDETF Program as a success, I would ask the committee to review Mr. Blau's testimony where Mr. Blau indicates that the OCDETF Program, far from being a success, engendered more turf battles and caused more problems than the strike force system.

As a matter of fact, in the course of Mr. Blau's testimony, he says the Organized Crime Strike Forces, on the other hand, are extremely centralized and decisionmaking is quite straightforward, as contrasted with the OCDETF Program.

So I would suggest you have before you the testimony of the man who ran the OCDETF Program in the Department of Justice during the administrations in which Attorney General Meese and Attorney General William French Smith were the Attorneys General, somebody who would have a view, you would think, that would be harmonious with the view of the current Attorney General, since they come from the same political party. And yet that view is 180 degrees contrary to the successes that the Attorney General has trumpeted for the OCDETF Program.

I will stop there, Mr. Chairman. I believe that—one more example. Senator Kennedy, in discussing some of the cases that I handled—one of the cases that I handled was the Angiulo case. During the time that I was strike force chief and commenced to handle the electronic surveillance, tried the case, and handled the appeals in the Angiulo case, along with the other people in my office, there were six sitting U.S. attorneys in the District of Massachusetts.

Do you think that the six of those people had any idea about how to run a case like that, or had the time to run a case like that, or spend the time that the Attorney General is inferring that they will spend managing an organized crime program?

What you will have is another unit in the U.S. attorney's office that will report to the chief of the criminal division, just like the general crimes unit and just like the securities fraud unit. And what you will have ultimately is young people with no experience, no institutional memory, and no vision about how to put these cases together.

In a couple of years, you will be looking around, Attorney General Thornburgh won't be here. There will be somebody else here explaining to you, Senator Nunn, why the program isn't working, because as Pete Vaira said in his testimony to the House and as I quoted in my written testimony to this committee, in 3 to 5 years, send for the FBI because you will need them to find any strike force program in any U.S. attorney's office.

Thank you.

[The prepared statement of Mr. O'Sullivan follows:]

STATEMENT OF JEREMIAH T. O'SULLIVAN BEFORE THE JUDICIARY COMMITTEE AND THE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS OF THE COMMITTEE ON GOVERNMENTAL AFFAIRS OF THE UNITED STATES SENATE

September 8, 1989

Messrs. Chairmen and Members of the Committees:

I am a partner with the Boston law firm of Choate, Hall and Stewart, having recently joined this firm after having served twenty-one years as a prosecutor, the last sixteen years of which I spent with the Department of Justice.

At the time of my resignation from the Justice Department, I was the United States Attorney for the District of Massachusetts, having been appointed to serve in that position for an interim period by Attorney General Thornburgh during a particularly difficult period in the history of that office. Prior to my term as United States Attorney, I served for ten years as the Chief Attorney of the New England Organized Crime Strike Force.

II.

Anyone familiar with the genesis of the Federal Government's efforts against organized crime knows that the initial impetus for the war against organized crime came neither from the Department of Justice nor from the federal investigative agencies, but rather from the Congress, and more specifically, from the Senate. Federal efforts against organized crime were sparked in 1950 when Senator Estes Kefauver began to conduct hearings into organized crime.

This initial effort was followed up in 1957 by Senator McClellan's Select Committee's investigation of organized crime. Robert F. Kennedy served as counsel to the McClellan

Committee. The Permanent Subcommittee on Investigations continues to the present day the initial efforts of Senator Kefauver's and Senator McClellan's Committees.

Congress clearly has established a specific oversight responsibility with respect to ensuring the effective operation of the federal government's efforts against organized crime. Over the twenty-two year period that the Strike Forces have operated, Congress periodically has held hearings and directed studies of the Strike Force program. Further, Congress has expressly recognized the role of Strike Forces in various legislative enactments. So, for instance, the Congress, in Sections 6103 [i][1][B] and 6103 [i][2][A] of Title 26 of the United States Code, has specifically authorized Strike Force Chiefs to apply to a court or directly to the Internal Revenue Service to obtain tax returns and tax return information for use in criminal investigations. And again, in enacting the Anti-Drug Abuse Act of 1988, the Congress, in section 1053 of the Act, directed that the "Drug Czar" report to Congress within a year on the operations of the Strike Forces, and further, in section 1054[C][3] created new asset forfeiture attorney positions for the Strike Forces.

III.

The Attorney General's proposal to abolish the Strike Forces, effective October 1, 1989, is described in a four page policy statement entitled "Consolidation of Organized Crime Strike Forces", issued on June 19, 1989, supplemented on August 28, 1989, by a two page cover memorandum. This policy statement asserts that the Attorney General is enhancing the federal effort against organized crime by merging the Strike Forces into the various United States Attorneys' office. In fact, such a transfer would greatly impede, if not destroy, the Justice Department's up to now successful efforts against La Cosa Nostra and affiliated groups in the United States.

The first section of the policy statement is entitled, "History of the Issue". The recitation of the history of the issue is bottomed on two assertions, both of which are clearly erroneous. The first assertion is that "Attorney General Meese reached no formal conclusion regarding the issue of consolidation, but adopted several of the recommendations of the 1987 report." This is false. Attorney General Meese unequivocally resolved the issue by deciding against the recommendation for consolidation made by the United States Attorneys' Advisory Committee. Attorney General Meese decided that consolidation was not warranted. Now to state that Attorney General Meese reached no final conclusion is a misstatement of fact.

The Attorney General's policy statement also asserts that the April 1989 General Accounting Office report concerning the

Strike Forces "noted the advantages of merging the Strike Forces into the United States Attorneys' offices." This is a misstatement of the conclusions of the General Accounting Office report. The GAO study was directed by the Permanent Subcommittee on Investigations and the members and staff of the Subcommittee know very well what the GAO report did and did not recommend. In fact, the GAO report rehearsed arguments both for and against merger but reached no conclusions and made no recommendations on the subject.

The GAO report clearly did point out, however, that the majority of United States Attorneys had not followed the Attorney General's directive to prepare and submit a plan for combatting organized crime in each of their Districts. This finding is not mentioned in the Attorney General's policy statement, as it undercuts his argument concerning the responsiveness of the United States Attorneys to the issue of dealing with the problem of organized crime in their Districts.

The next section of the Attorney General's policy statement is entitled "Facts of the Plan." Reduced to its essentials, the "facts of the plan" are that the Strike Forces would become units in United States Attorneys' offices, with the United States Attorney having the authority to hire both the Strike Force attorneys and the Strike Force Chief. As a sop to those who believe that the United States Attorneys will not be able to do an effective job in combating organized crime, the statement provides for twenty lawyers to be kept in Washington in the Organized Crime and Racketeering Section as a "strategic reserve" to prosecute cases where needed. What the plan does, in fact, is to downgrade the Strike Forces to ordinary units within the United States Attorneys' offices, sending the message to the public that organized crime is an ordinary problem not deserving of any special attention by the Federal Government. Further, the plan subjects the Strike Force attorneys and the Strike Force Chief to the bureaucratic reporting requirements of the United States Attorneys' offices, with the Strike Force Chief reporting up a chain of command through the Chief of the Criminal Division to the First Assistant United States Attorney and then to the United States Attorney. Such a bureaucratic system would assure that the top-quality people who have been Strike Force Chiefs for the past ten years and have produced results that even the Attorney General has to admit have been outstanding will no longer be attracted to the position of Strike Force Chief.

The Attorney General's plan would lead to the dismantling of the federal effort against organized crime. Having contributed to that dismantling through this plan, the Attorney General purports to solve the problem created by him by having twenty lawyers in Washington who will travel out from Washington "to try cases where needed." More than twenty lawyers already are out in the field, ready, willing and able "to try cases where needed". They are the prosecutors of the various Strike Forces. The problems of organized crime often are of an intractable nature. It makes no sense to have prosecutors travelling out to the field for short periods of time to deal with problems in a particular area of the country. This is one of the reasons why the Strike Forces were set up in the first place.

The plan also envisions the creation of an Organized Crime Council "to oversee the national effort against organized crime". This is window dressing. There already exists such a council at the working level, called the National Organized Crime Planning Council, which carries out the substance of the functions that the Attorney General proposes to give to the new Organized Crime Council.

The policy statement lists the purported benefits of abolishing the Strike Forces. The primary benefit asserted by the Attorney General is that the merger of Strike Forces into the United States Attorneys' offices would avoid duplication of effort in that Strike Forces and the United States Attorneys' offices will not both be "prosecuting traditional organized crime elements with their own resources". Other than the United States Attorney's Office for the Southern District of New York, which is sui generis, not one of the other ninety-three United

States Attorneys' offices has had a substantial program directed against organized crime, either recently or historically, so there is no benefit regarding the avoidance of duplication of effort to be gained by merger. Further, because of the system that is in place in which the Strike Force, pursuant to the guidelines set out in the United States Attorneys' Manual, reports all of its activities to the United States Attorney through the use of case initiation reports, as well as providing the United States Attorney with copies of all electronic surveillance warrants, search warrants and indictments, and so on, there is no duplication of effort unless a United States Attorney fails to read the documents he regularly receives from the Strike Force in his District. The guidelines further provide that the United States Attorney may add personnel from his office to a Strike Force prosecution team whenever he feels that the prosecution is not sufficiently staffed. The guidelines not only allow the United States Attorney to do this; the guidelines encourage the United States Attorney to do so. Therefore, again, the alleged benefit of consolidation as asserted by the Attorney General just does not wash when it is examined closely.

A third benefit of consolidation asserted by the Attorney General in his policy statement is that the various United States Attorneys would then be able "to coordinate the overall law enforcement effort in the district." Under current Strike Force United States Attorneys' guidelines, and Department of Justice directives, this is what the United States Attorney is supposed to be doing now. If he is not, there is no reason to believe that a merger will have any effect in encouraging the United States Attorneys to carry out the responsibility which they currently have.

Another benefit of consolidation alleged by the Attorney General is that consolidation will "create a strategic reserve of experienced prosecutors" in Washington to be utilized in a flexible response to organized crime problems throughout the country. There is no need for such a strategic reserve because the Strike Forces are already in place to carry out this task. And the only reason to have such reserve is because the Attorney General will have created the need for such a reserve by abolishing the regional Strike Forces. If the Strike Forces are not abolished, there is no need for such a strategic reserve.

The final benefit asserted in the Attorney General's policy statement for merger of the Strike Forces is "the cost saving involved." This assertion is absurd on its face. Strike Force attorneys will continue to need offices, secretaries, word processing equipment and so forth, whether they are located in a United States Attorney's office or continue to be separate in Strike Force offices. Further, in fact, such a merger should cost substantial amounts of money because Strike Force attorneys, being on the GS scale, are paid substantially less in salary than their counterparts in the United States Attorneys' offices.

IV.

Recent statements to the press by United States Attorney Andrew Maloney of the Eastern District of New York, one of Attorney General Thornburgh's closest advisors on the Strike Force merger issue, illustrate what will happen if the merger of the Strike Forces into the United States Attorneys' offices is allowed to take place. In the August 29, 1989, issue of the Manhattan Lawyer, Mr. Maloney is quoted as follows:

> "You give me," he said, "a graduate of a good law school with two years' experience as a federal judicial clerk or as an associate in a top tier firm - you give me that young man and in one year he'll be running circles around most of the Strike Force prosecutors."

In the same article, Mr. Maloney is quoted as saying there is no such thing as an organized crime expert. "It's all elitist nonsense," he is quoted as saying in the article. "An effective prosecutor doesn't need to know organized crime. He needs to be a good trial lawyer."

I recognized, both when I was the United States Attorney and when I was the Strike Force Chief, that a prosecutor's office needed a balance of experienced prosecutors and young, intelligent but inexperienced prosecutors. However, I always believed that the balance should be weighted heavily in favor of experienced prosecutors, especially in dealing with intractable problems like organized crime. It is the experienced prosecutor who understands the ethos of the investigative agencies and is therefore able to get more out of the agencies. It is the experienced prosecutor who recognizes and knows how to deal with the cunning of an experienced criminal defense attorney. It is the experienced prosecutor who has the credibility and knowledge to deal with a demanding court. It is the experienced prosecutor who must take the laboring oar in complex federal prosecutions involving RICO, electronic surveillance and other sophisticated investigative and prosecutive tools given to federal prosecutors by the Congress. Mr. Maloney clearly believes otherwise. I can understand that when dealing with hand-to-hand drug cases, appellate matters and civil cases, a United States Attorney might be satisfied with younger, more inexperienced lawyers, but such lawyers by definition do not have the informed judgment necessary to handle a complex criminal investigation and prosecution.

History belies Mr. Maloney. He ignores reality and the successes that the Strike Forces have had in recent years in smashing organized crime. These successes have been based in large measure on the efforts of experienced prosecutors. The public should not have to pay for Mr. Maloney's fantasies and the Attorney General's mistakes by recurrences throughout the country of the mass resignations that have recently taken place in Mr. Maloney's District because of the Attorney General's plan to abolish the Strike Forces. Notwithstanding the Attorney General's statements that he is committed to ensuring that the operation of the Government's forces combatting organized crime is not diminished or diluted, he has in fact done nothing to encourage Strike Force attorneys to continue their careers in Government service after the merger becomes effective. On the contrary, although more subtle than Mr. Maloney, he communicates the same message: Strike Force attorneys are not a valued resource - they can easily be replaced. As a result, not surprisingly, large numbers of Strike Force attorneys are now preparing to leave Government service. This exodus is particularly noteworthy given that the dedication of these talented and hard-working attorneys to the organized crime program is such that they have not only sacrificed lucrative careers in private practice, but they have worked for the Government for salaries between ten and twenty thousand dollars per year less than Assistant United States Attorneys who handle less complex cases and have less responsibility.

The six Brooklyn Strike Force attorneys for whom today is their last day in office have a total of seventy-five years of prosecutive experience between them. The public is now losing all of that experience. In recent years the Brooklyn Strike Force compiled an impressive record utilizing experienced prosecutors. Among the accomplishments of the Brooklyn Strike Force are the following:

* The conviction of more than seventy-five members of New York's La Cosa Nostra Families, including the top leadership of the Bonano, Gambino and Columbo Families.

* The convictions of more than fifty top labor union officials for racketeering, among them, corrupt officers of the Teamsters, Carpenters, Laborers, Bricklayers and Blasters unions.

* The conviction of over two hundred businessmen for a variety of criminal activities carried out in association with organized crime.

* The obtaining of more than two hundred million dollars in forfeitures, fines and restitutions from various organized crime figures prosecuted by the Brooklyn Strike Force.

* Substantial inroads into breaking the LCN's hold on the air freight and trucking industries at Kennedy Airport. Eleven people have been convicted in the Brooklyn Strike Force's project at Kennedy airport, including Luchese Family members, Paul Vario and Frank Manzo, Teamster Local 295 President, Frank Calise, and legendary organized crime union figure, Harry Davidoff.

V.

The Strike Forces have proved that a multi-jurisdictional agency, independent of political pressure, with a narrow mission, can have a significant impact on the operations of what remains the strongest and most entrenched criminal organization in the United Sattes, La Cosa Nostra. Nor have the Strike Forces' successes been limited to La Cosa Nostra; the Strike

Forces have directed and will continue to direct resources as needed at other established and emerging organized crime groups, including motorcycle gangs and emerging ethnic criminal organizations. Such cases involve a commitment of time and resources which does not vary with the fashion of the day. They require a long-term effort which is multi-district in approach. There are many examples of such cases which have been successfully prosecuted by the Strike Forces. The prosecution of Gennaro Anguilo and his brothers by my office began in 1979 and has not yet been completed. The investigation commenced in 1979; the electronic surveillance commenced in January of 1981; the grand jury began shortly thereafter; the indictment was not returned until September of 1983; the main trial did not begin until May of 1985 and was not completed until February of 1986. There were also several other related trials of members and close associates of the Patriarca Family that occurred after the main trial was completed. The direct appeal to the First Circuit of the main Anguilo case has not yet been argued.

The success of this prosecution is directly attributable to the fact that it had the benefit of the efforts of several very experienced prosecutors whose work on the case spanned the terms of no fewer than six United States Attorneys in Massachusetts.

I do not believe that one of Mr. Maloney's young prosecutors would have remained in the office long enough to have handled an investigation like the Anguilo case from beginning to end. Assuming that he was in the office that long, I believe that it is ludicrous to suggest that he would have had the judgment and expertise to prosecute a case that involved eight hundred and fifty hours of electronic surveillance and a RICO indictment that alleged twenty separate crimes, including eight murders, and which for the first time in a federal court alleged the existence and operation of a Mafia Family. In pursuing this investigation and related investigations, the activities of the Boston Strike Force involved tying together investigative and prosecutive activity not only in Boston, but in Providence, Rhode Island, and New Haven, Connecticut. Merger of the Boston Strike Force into the various United States Attorneys' offices in New England would make such coordination difficult, if not impossible.

VI.

I hope that the Congress will see fit to exercise its special oversight function with respect to the Department of Justice's organized crime program and block this proposed merger of the Strike Forces into the United States Attorneys' offices. As my former colleague Peter Viera stated at hearings conducted by the House of Representatives on this issue earlier in the summer: "If this merger takes place, then in three to five years, send for the FBI because you won't be able to find the

Strike Forces." I ended my written statement to the House Committee considering this issue by rehearsing the classic maxim, "If it ain't broke, don't fix it." I end this statement similarly.

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Cochairman **Nunn**. Thank you very much, Mr. O'Sullivan.

Mr. Harmon.

STATEMENT OF JAMES D. HARMON, JR., ATTORNEY, BOWER & GARDNER, AND FORMER EXECUTIVE DIRECTOR, PRESIDENT'S COMMISSION ON ORGANIZED CRIME

Mr. **Harmon**. Mr. Chairman, Senator Kennedy, members of the committee, I appreciate the opportunity to be here to address you today on this issue. I do not think it advances anybody's cause to engage in personal attacks of any kind, and I, for one, do not intend to do that.

It is clear to me that everyone here, to coin a phrase, is trying to do the right thing. It is also clear to me that this committee has given law enforcement the tools to do the job when it comes to organized crime, and my particular view is that the Attorney General should be given the freedom to use those tools in the most effective way possible.

I am currently a partner in the New York law firm of Bower & Gardner and, for 13 years, was a prosecutor at the local and Federal level, following that with 2½ years as Executive Director and Chief Counsel to the President's Commission on Organized Crime.

For 6 years, I served as an assistant district attorney, most of that time serving under Robert Morgenthau. In those days, autopsy reports on the murder cases that I tried for 4 or 5 years regularly showed the presence of heroin. Today, they show the presence of heroin and cocaine. I must confess, Senator Kennedy, that I did not think of that as a problem of organized crime, but it was and it is.

While deputy chief of the Brooklyn Strike Force for 6 years, I conducted investigations primarily of the Lucchese and Gambino crime families, including extensive electronic surveillance of people who we now have all come to know—John Gotti and his brother.

And it became very obvious, contrary to popular myth—and, I must say, contrary to belief in law enforcement circles—that the Gambino crime family and the Mafia traffic in every imaginable type of drug—heroin, cocaine, pills, and PCP, as well as marijuana.

When that became obvious in that particular investigation, the battle royal that ensued over whether or not the strike force should continue the case or the U.S. attorney should continue with that investigation of the people who have become preeminent in organized crime, was destructive and we are all paying a price for that particular battle, even today. The Attorney General's proposal, in my view, would ensure that priorities are set correctly and that this sort of thing does not take place in the future.

While with the President's Commission on Organized Crime, we studied the problem for 2½ years, made recommendations to the President, to the Attorney General, and to the Congress.

We learned certain things that we can build upon our successes, and what we have learned is that the problem of organized crime is not only emerging, but that the groups are interconnected. We learned that the problem is not only families and cartels, but the problem is enablers and facilitators, public officials who are corrupt, attorneys who are likewise corrupt. This is the problem that we face today, and the response should be a multidimensional response involving civil RICO, involving narcotics prosecutions. Narcotics is an organized crime problem.

The battle against organized crime must be a natural progression. Tactics must change as the threat changes. The Attorney General must be free to have the same flexibility that the mob has.

With all due respect, the issue is not abolishing the strike forces. The issue is not disarming in the face of the threat of organized crime. The issue isn't even if it ain't broke, don't fix it. The issue is, if it is running, why can't it run better?

We have had an analogy explained here about redundancy in the design of aircraft. No aircraft can fly with two pilots with their hands on the controls, and that, I think, is the issue before this committee.

The issue is mobilizing the strike forces as part of an integrated strategy. The issue is unity of effort. Prosecutorial resources are now fragmented. Someone must have the authority to commit prosecutorial resources against organized crime.

I urge the committee to leave with the Attorney General the authority that he needs to be flexible in responding to the problem of organized crime. And I would like to take the opportunity to look into my crystal ball, if I could, for a minute and then I will conclude my remarks, Senator Nunn.

Where is this leading? It would lead to an economically weakened organized crime. It would lead to the average person, to the person victimized, to the private sector, being able then to deal with a weakened mob. And, finally, this leads into another debate also pending before this Congress, and that is what to do about civil RICO.

In my opinion, Senator, removing the treble damages from the provisions of RICO would seriously impair the public's ability and the private sector's ability to do anything on its own to respond to the threat of organized crime.

Thank you. That concludes my remarks, sir.

[The prepared statement of Mr. Harmon follows:]

Statement

of

JAMES D. HARMON, JR.

BOWER & GARDNER
NEW YORK, NEW YORK

Before the

COMMITTEE ON THE JUDICIARY
AND
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
OF THE
COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

Concerning

Reorganization of the Organized Crime Strike Forces

on

September 8, 1989

Mr. Chairman and Members of the Committee and Subcommittee:

As the former Executive Director and Chief Counsel of the President's Commission on Organized Crime, I appreciate the opportunity to testify concerning the reorganization of the Department of Justice Organized Crime Strike Forces.

The Commission was established by Presidential Executive Order 12435 on July 28, 1983, which gave it the following mandate:

> [M]ake a full and complete national and region-by-region analysis of organized crime; define the nature of traditional organized crime as well as emerging organized crime groups, the sources and amounts of crganized crime's income, and the uses to which organized crime puts its income; develop in-depth information on the participants in organized crime networks; . . . evaluate Federal laws pertinent to the effort to combat organized crime[;] . . . advise the President and the Attorney General with respect to its findings and actions which can be undertaken to improve law enforcement efforts directed against organized crime[;] and make recommendations concerning appropriate administrative and legislative improvements and improvements in the administration of justice.

In fulfilling the mission given to it by the President, the Commission conducted a series of public hearings of national and international scope on money laundering[1], cocaine[2] and heroin[3]

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[1] Hearing: Organized Crime and Money Laundering (March 14, 1984)

[2] Hearing: Organized Crime and Cocaine Trafficking (November 27-29, 1984)

(continued...)

trafficking, organized crime of Asian origin[4], the mob's involvement in legal and illegal gambling[5], and legitimate businesses and labor unions[6]. These hearings, along with the work of the Commission's investigative and legal staff, resulted in recommendations made to the President and to the Attorney General which took the form of reports on money laundering[7], narcotics trafficking[8], labor-management racketeering[9], and the definition of the overall problem presented by organized crime today as well as its economic impact[10].

Many of the Commission's recommendations have been accepted by the Executive Branch, the Congress and the private sector. Some of the more well known examples are these:

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[3] (...continued)
[3] Hearing: Organized Crime and Heroin Trafficking (February 20-21, 1984)

[4] Hearing: Organized Crime of Asian Origin (October 23-25, 1984)

[5] Hearing: Organized Crime and Gambling (June 24-26, 1985)

[6] Hearing: Organized Crime and Labor-Management Racketeering (April 22-24, 1985)

[7] THE CASH CONNECTION: Organized Crime, Financial Institutions and Money Laundering (October 1984)

[8] AMERICA'S HABIT: Drug Abuse, Drug Trafficking and Organized Crime (March 1986)

[9] THE EDGE: Organized Crime, Business and Labor Unions (March 1986)

[10] THE IMPACT: Organized Crime Today (April 1986). A study commissioned by the President's Commission estimated that, in 1986, organized crime had a net income in excess of $67 billion, caused a reduction of $17 billion in the gross national product, a loss of 394,000 jobs and a .3 percent increase in consumer prices. Id. at 413, The Income of Organized Crime (Wharton Econometric Forecasting, Inc. 1986).

(a) Legislative initiatives enacted in the Money Laundering Control Act of 1986 and in modification of the Mansfield Amendment;

(b) Use of the civil provisions of the RICO statute (as in the recently concluded Teamsters case) to strike at the most entrenched elements of La Cosa Nostra; and

(c) Monitoring of drug abuse in the workplace through testing (recently sanctioned by the Supreme Court in National Treasury Employees Union v. Von Raab, ___ U.S. ___ , 109 S. Ct. 1384 (1989); Skinner v. Railway Executives Assoc., ___ U.S. ___ , 109 S. Ct. 1402 (1989)) as part of a demand strategy to reduce narcotics consumption.

In identifying and evaluating those operating as organized crime, the Commission looked for common denominators from which to fashion the elements of a general strategy. Narcotics trafficking was the universal common denominator. The proposition that La Cosa Nostra does not traffic in drugs is pure myth. Moreover, certain organizational factors led the Commission to define the problem of organized crime as follows:

> Organized crime is the collective result of the commitment, knowledge and actions of three components: the criminal groups each of which has as its core a person tied by racial, linguistic, ethnic or other bonds; the protectors, persons who protect the group's interests; and specialist support, persons who knowingly render services on an ad hoc basis to enhance the group's interests.[11]

The concept of the criminal group includes such factions as the traditional La Cosa Nostra family, the Cuban based group known as "The Corporation," the Medellin Cartel and the Hong Kong based

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[11] *Id*. at p. 25.

Triad Societies. Protectors include corrupt public officials, businessmen, labor leaders and attorneys. Specialist support includes such persons as pilots, chemists and those who purchase the goods and services of the mob such as drug users.[12] Therefore, any solution to the problem of organized crime requires a multi-dimensional approach.

Traditionally, the Organized Crime Strike Forces have prosecuted elements of La Cosa Nostra, excluding their involvement in narcotics trafficking. In some cities in recent years, Strike Force authority has been expanded to include criminal groups other than La Cosa Nostra. This is a recognition of the fact that La Cosa Nostra is only part of the problem of organized crime. The problem is now of such magnitude that all available resources must be committed against the mob as part of an integrated strategy. Therefore, I support transferring responsibilities of the Organized Crime Strike Forces to the United States Attorneys. My position is based not only upon my work with the President's Commission on Organized Crime, but also from my involvement with law enforcement at the federal and local level over a period of fifteen years.

Upon graduation from West Point, I served for several years as an Infantry Officer. After graduating from law school in 1971, I served as an Assistant District Attorney and Special Trial Counsel under District Attorneys Frank Hogan and Robert Morgenthau in the New York County District Attorney's Office, serving most of that time in the Homicide Bureau. In those days, heroin, not cocaine, was the drug most responsible for street crime and violence. Beginning in 1977, I served as Deputy Chief of the Organized Crime Strike Force in Brooklyn until 1983, when I became Senior Litigation Counsel to the United States Attorney for the Eastern District of New York. During these assignments, I was responsible for the prosecution and investigation of organized crime figures on charges of labor racketeering, tax evasion, official corruption, narcotics trafficking, and furthermore conducted prosecutions and investigations of a Fortune 500 company and a domestic terrorist group known as the FALN. On January 1, 1984, I was appointed Executive Director and Chief Counsel of the President's Commission on Organized Crime and held that post until the Commission's term expired in April of 1986.

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[12] Id. at pp. 25-32.

The mob's evolving nature calls for a strategy with a concrete objective and the means to reach that objective--including an organization tailored to meet the existing and anticipated threat, not some other. Strategy should define organization, but not vice versa. A successful strategy requires that authority rest somewhere to commit and allocate all available resources to meet the mob head-on, or by flanking movements, or both.

Prosecution of the mob hierarchy is an indispensable element of any successful strategy against organized crime. However, other elements are just as important to ultimate success. The complexity and wealth of the underworld demands that, from the outset, any tactical plan have as a primary goal the destruction of the mob's economic base. Organized crime simply could not operate at current levels without its capital accumulated over many years.

Forfeiture of assets and civil measures designed to cut the mob's entrenched influence over legitimate businesses and the institutions of society are the main means to this end. The recent civil RICO suit which sought to turn loose democratic forces within the Teamsters union to cast out mob officers is a good example of this new approach. Seeing this, the Commission recommended an industry-by-industry approach to the infiltration of organized crime into labor unions and legitimate businesses headed by United States Attorneys.[13] Tactics such as these spell the difference between winning many battles, but losing the war. Their effective employment requires some reorganization.

United States Attorneys, through their civil divisions, existing narcotics prosecution units and broad access to governmental agencies, are in the best position to orchestrate a unified, decisive response to the problem of organized crime. Their authority in this area must be clear and must include operational control over the functions which the Strike Forces now perform. Demoralizing internal turf battles would then no longer consume time and energy better directed at the mob.

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[13] THE EDGE, supra, n. 9 at 313.

To be successful against organized crime, law enforcement must look at the world through the eyes of the mob. When viewed this way, narcotics trafficking is seen as its economic mainstay, yet integrated with the rest of the mob's activities. An artificial distinction between narcotics and everything else fragments the enforcement response at the mob's most vulnerable point--narcotics trafficking. This is the paradox of the current posture of prosecutorial assets. Where enforcement should be focused, e.g., to infiltrate and exploit the "seams" and interconnections between different criminal groups often seen in narcotics trafficking, an arbitrary line is drawn across which Strike Force and assistant United States attorneys cannot cross.

The Strike Forces have a considerable record of accomplishment. They deserve much of the credit for bringing the war against organized crime to the point where it can begin to enter a decisive phase. Every citizen, and those responsible for the appointment of United States Attorneys, have the right to expect them to make measurable progress against the mob through new tactics aimed at finality, rather than a festering war of attrition. Maintaining the high level of dedication and competence typical of Strike Force attorneys is the first challenge which United States Attorneys must meet to achieve that goal.

This war can be won. The mob is vulnerable. It is now time that resources were committed in an integrated way to a war which the Strike Forces have often fought singlehandedly for too long.

Cochairman NUNN. Thank you very much, Mr. Harmon.

Mr. Roller.

STATEMENT OF DOUGLAS P. ROLLER, ATTORNEY, ROOKS, PITTS & POUST, AND FORMER STRIKE FORCE CHIEF, CLEVELAND, OH

Mr. ROLLER. Thank you, Mr. Chairman. This is the second time that I have had the privilege of appearing before the Permanent Subcommittee on Investigations. The first time was over a dozen years ago when the subcommittee was dealing with the problem of how to best attack labor racketeering and organized crime's influence in the labor movement.

I, quite frankly, find it incredible that a dozen years later, I am back before, in part, the same subcommittee and I am hearing the same thing that I heard before 1978 from Dick Thornburgh.

When he sat here and he testified as Attorney General, he said the same thing he was saying 15 years ago as a U.S. attorney in Pittsburgh—merge the strike forces into the U.S. attorney's office.

Mr. Thornburgh talked about new situations and new ways of dealing with problems because the crime problem has changed. But, yet, he presented to you this morning the same solution he had 15 years ago. The difference, however, is, in presenting that position now, he is ignoring the irrefutable fact of the overwhelming success of the strike force program.

I don't quite understand how Judge Bonner can say that the strike force program was not successful in Los Angeles when two successful LCN hierarchies have been prosecuted. Perhaps the law enforcement community in Los Angeles has difficulty recognizing progress and success, as apparently they do, with how many chief law enforcement officers there are in the district. There is only one; there has always only been one, the U.S. attorney.

Another example, and I will be very brief, of the successes of the strike force that I think is particularly germane to this committee is the success that was had in Cleveland where I had the opportunity to be the attorney in charge of the commencement of the investigation that ultimately led to the conviction of James T. Licovoli, who was the boss of the family, and virtually destroyed that family.

There is no question what the result was. Angelo Lonardo, the former underboss, testified before this very subcommittee a year ago that the mob in Cleveland is destroyed. The same type of approach, the same type of success was achieved in Buffalo, NY.

You have heard Mr. Vaira talk about, and others talk about the successes in Philadelphia where, once again, we are in the second generation of prosecution of the entire hierarchy of the LCN. If allowed to go forward, the LCN in Philadelphia will disappear because they are going to run out of people to replace the people that are being put in jail, and they are going to run out of money because we are putting the sources of revenue out of business.

In that whole Great Lakes region, as Mr. O'Sullivan referred to, there is one place where organized crime has not had the problems that it had in Cleveland, Buffalo, and Philadelphia, and that is in Pittsburgh. And anyone who will sit here and tell the committee that there is any other reason for that other than the fact that

Dick Thornburgh, in one of the first acts he did as an Assistant Attorney General, closed down that strike force—if the U.S. attorney has the time and the resources and the knowledge to fight organized crime, then why wasn't it done in Pittsburgh where the biggest threat to the LCN there is gestational attrition? That is what this committee has to view.

When I was attorney in charge in Cleveland and I supervised Operation Pendorf—and we went one up on Mr. Hogue because that electronic surveillance went for 13 months—the case started with one U.S. attorney of one political party; it culminated with the conviction of Roy Williams under the term of another U.S. attorney from a different political party.

Even more pronounced is the span of U.S. attorneys in Milwaukee, which is an example of another city where the LCN was virtually wiped out—four different U.S. attorneys, and not just the U.S. attorneys; four different sets of staff came and went from the start of the Balistrieri case until the end of it.

Don't tell me, and don't tell the FBI in Milwaukee that Frank Balistrieri would have been convicted in the Hobbs Act case in Milwaukee if it had been handled by the U.S. attorney's office because they are going to tell you you are crazy.

Now, that doesn't mean that the U.S. attorneys are incompetent. I doubt if Mr. Thornburgh is going to sit here and say that the reason nothing happened in Pittsburgh since 1976 is that he was the last competent U.S. attorney ever to sit in that district.

The problem is not the competency, although there have been occasions of that, but that is not the real problem. It is the commitment of dedicated resources to the problem. Mr. Thornburgh confuses the coordination needed to handle organized crime with the coordination within a district. Coordination within a district of a U.S. attorney's office isn't the problem; it is the national coordination.

And you have heard witness after witness after witness tell you that the U.S. attorneys can't do it and they haven't done it. So why are we going to turn it back to them now? The reason, I suggest to you, is the only real turf battle that still exists, and that is the one Mr. Vaira alluded to.

There is no way a strike force chief can open up a case in a district if the U.S. attorney doesn't want it opened up. There is no way he can do anything without the U.S. attorney's approval. The turf battle is the U.S. attorneys want back—strike that. Some of the U.S. attorneys want back that which they feel was taken from them by the Department of Justice 20 years ago, and they want those resources. Why do they want to have those resources? To do with them exactly as they want and exactly as they will be able to do.

Mr. Chairman, the stakes here are too high; they are too high to go back to the failed programs of the past. And make no mistake about it, that is what Mr. Thornburgh wants to do. The American people cannot suffer such a folly.

I guess Mr. Thornburgh, in one last comment I have, said he has not heard anyone recommend that the strike force concept be utilized to fight drug trafficking. Well, he can't say that anymore because that is exactly what I recommend. If we are serious about dealing with the domestic drug problem of the criminal cartels, then the strike force concept ought to be applied to that program rather than ending the most successful national crime program the Department of Justice has ever had.

Thank you.

Cochairman NUNN. Thank you, Mr. Roller. I was going to ask this question later, but I will address it to you or any other member of the panel now. But on that point, which I think is a key point, would you have the existing strike forces, if you had your way, handle the drug organized crime cartel problem or would you set up a separate strike force?

Mr. ROLLER. I think that with the testimony you have heard here today about the correlation between organized crime and between narcotics cartels that the institutional experience would be wasted if you totally separated the two programs.

Right now, the strike forces in terms of personnel and power are not set up to do that. The legislation that was introduced or suggested a year ago, which I believe created a separate division called the Organized Crime and Narcotics Division of the Department of Justice, would be the way to deal with that. Whether the actual offices are separate or not, I don't think is really relevant.

Cochairman NUNN. Thank you, Mr. Roller.

[The prepared statement of Mr. Roller follows:]

STATEMENT OF

DOUGLAS P. ROLLER

BEFORE THE

UNITED STATES SENATE JUDICIARY AND
GOVERNMENTAL AFFAIRS COMMITTEES

September 8, 1989

Mr. Chairman and Members of the Committees:

I. INTRODUCTION

I am a Partner with the Chicago Law Firm of Rooks, Pitts and Poust. Prior to entering the private practice of law, I served for fifteen years as an attorney in the Organized Crime and Racketeering Section of the United States Department of Justice.

In September of 1969, after being accepted in the Department of Justice Honors Program, I was assigned to the Organized Crime and Racketeering Section headquartered in Washington, D.C. In December of that same year, I was transferred to the Chicago Strike Force where I served as a Strike Force attorney until I was appointed Deputy Attorney in charge of that office in 1973. In July of 1975, I was transferred to Cleveland as Attorney In Charge of the Cleveland Strike Force and remained in Cleveland until July of 1978. At that time, I returned to Chicago to become Chief of the Chicago Strike Force. I served in that capacity until September 30, 1984.

During my tenure in the Department of Justice, I had the privilege of participating directly in a number of major investigations undertaken by the Organized Crime and Racketeering Section. The ultimate culmination of these investigations led to the virtual demise of the Organized Crime hierarchy in three midwestern cities: Chicago, Cleveland and Milwaukee. The Pendorf case in Chicago, which I personally prosecuted, resulted in the conviction of Roy Williams, former President of the International Brotherhood of Teamsters, Allen Dorfman, the primary Mob architect within the Central States Pension Fund (CSPF), and Joseph Lombardo, a Chicago LCN Capo who was responsible for overseeing Organized Crime interests in the CSPF. Following these convictions, Roy Lee Williams became a key government witness in the Kansas City Skimming Case.

I am providing this Statement to the Committees today in the hope that my experiences in the war against Organized Crime may be of assistance in the Judiciary and Governmental Affairs Committees' evaluation of Attorney General Thornburgh's ill-conceived plan to merge the Strike Forces into the United States Attorneys' offices.

The overwhelming success of the Strike Forces in the last decade, I believe, is attributed to three characteristics of the existing Department of Justice program. The first of these is the recruitment and development of experienced career prosecutors knowledgeable in the tools and methods of complex criminal investigations. Second is the dedication of specified resources exclusively to the task of investigating and prosecuting organized crime cases in order to provide a continuity of intensive investigative and prosecutive effort. The third factor is centralized supervision and control over the Strike Forces by the Organized Crime and Racketeering Section of the Criminal Division in order to coordinate, on a national level, the government's effort against organized crime. An examination of the Cleveland, Chicago and Milwaukee cases support these conclusions.

II. CLEVELAND MURDER INVESTIGATION

After I arrived in Cleveland in 1975, the Strike Force developed plans and strategies to not only combat labor racketeering, a top priority in Cleveland, but also to undertake a comprehensive investigation and prosecution of the heiarchy of the Cleveland LCN through use of the RICO Statute. Probable cause to install electronic surveillance in the home of James T. Licovoli, also known as Jack White, boss of the Cleveland LCN, was painstakingly established. The criminal violations which were utilized to obtain a Title III Order involved a RICO "association in fact" theory of the LCN's control of various types of illegal activity in the Cleveland area. The electronic surveillance was in place when Danny Greene was murdered on October 6, 1977.

Greene's vicious murder was accomplished by the use of a remote control bomb built into a car which was parked next to Greene's vehicle. The bomb car was exploded as Green was about to enter his vehicle. Greene's murder was preceded by the murder of John Nardi, a local teamster official who had aligned himself with Greene in an effort to take over certain gambling and other criminal activities from the Cleveland family.

The murder of Danny Greene occasioned an intensive investigation by federal and local law enforcement. The coordination of this investigation occurred through almost daily meetings at the Strike Force headquarters. Officials of the Cleveland Police Department and the Cuyahoga County Prosecutor's office (with whom previous lines of communication had been established) joined the federal Strike Force representatives and attorneys at these meetings. It was agreed at the outset that primary jurisdiction in the event of prosecution would be local because at that point in time Ohio had a death penalty for murder. However, federal jurisdiction would be retained to pursue a concurrent RICO murder case. Although primary federal investigative responsibility was handled by the FBI and AT & F, every Strike Force participating agency contacted informants and concentrated on attempting to obtain intelligence information regarding the murders. In order to alleviate interagency conflict, the meetings at the Strike Force offices were chaired by Strike Force attorneys who participated in the review of evidence, planning for the next few days activities including who was to do what, and the evaluation of the evidentiary and intelligence information being developed on a daily basis. Early on it was learned that there was an eye witness to the bombing who was able to provide a partial license plate number and an artist's sketch of one of the participants. The witness was a member of a local law enforcement officer's family. The officer was reluctant to disclose this information because of the obvious danger to his family such a disclosure would entail. I am absolutely convinced that the primary reasons that this officer ultimately came forward were his prior contacts with the Strike Force and his recognition of the non-political and professional nature of the Strike Force.

Through the use of electronic surveillance and traditional investigative techniques, one of the perpetrators of the murder of Danny Greene was identified. A primary witness against this individual was developed and immediately placed in the Witness Protection Program and removed from the area. Thereafter the perpetrator, Raymond Ferritto of Erie, Pennslyvania, was arrested by the FBI and returned to Cleveland for his appearance before a magistrate to answer the RICO Complaint that had been issued. Following interviews of Raymond Ferritto by the arresting FBI agents and his subsequent Grand Jury interrogation, Mr. Ferritto sent word he was willing to cooperate in the investigation. He was then immediately taken out of the Cuyahoga County Jail and debriefed by the FBI. Mr. Ferritto's disclosures provided the basis for an extensive Grand Jury investigation that resulted in the indictment and subsequent prosecution of James T. Licovoli, boss of the Cleveland family, Angelo Lonardo, the underboss, and four other LCN members on RICO/murder charges.

This investigation also implicated James T. "Jimmy The Weasel" Fratiano in the murder plot. Mr. Fratiano was brought to Cleveland for arraignment on a RICO Complaint and in a meeting with Strike Force attorneys and Cuyahoga County Prosecutors was presented with a very unattractive alternative to full cooperation: the electric chair. Mr. Fratiano began cooperating with the Government and his testimony has led to numerous convictions of LCN figures throughout the country.

The Licavoli case and subsequent prosecutions have virtually destroyed the LCN in Cleveland. This success was achieved because the Strike Force was staffed with experienced career prosecutors adept in using RICO, Title III, witness protection and the Grand Jury in effective and innovative ways. The existence of an independent, professional organized crime field office also proved invaluable in securing the trust of local enforcement whose assistance materially contributed to the successful outcome of the case.

Incidentally, the United States Attorney was kept fully apprised of the investigation, concurred in the Strike Force's handling of the case, and provided his support and assistance with the federal investigative agencies when needed. In short, the United States Attorney/Strike Force structure and relationship assisted, rather than impeded, this important investigation.

III. A COMPARISON OF THE GOVERNMENTS' ORGANIZED CRIME EFFORTS IN CLEVELAND AND PITTSBURGH

The success of the fight against Organized Crime in Cleveland also provides a striking contrast with the Federal Government's efforts in a geopolitically and economically similar city, Pittsburgh, Pennsylvania.

In addition to the virtual destruction of the Cleveland LCN family as described above, the Buffalo Strike Force likewise brought significant prosecutions against the LCN in their area. In 1984 LCN Boss Samuel Russotti, his under boss, Consigliere, and several Capos and associates were convicted in a RICO prosecution embracing predicate acts of murder, arson, extortion and obstruction of justice.

In Philadelphia, LCN Boss Angelo Bruno, underboss Phil Testa, and several top Capos were indicted in a Philadelphia Strike Force RICO prosecution. Subsequent prosecutions have been likewise undertaken against the current LCN leadership in Philadelphia.

In Pittsburgh, Pennslyvania, however, where the Strike Force was closed by then Assistant Attorney General Richard Thornburgh in the summer of 1976, there has not been one major prosecution of the LCN hierarchy. The Pennslyvania Crime Commission in its 1989 Report observed that while age was taking its toll on the LaRocca/Genovese LCN family, this alone would not destroy the Mob in Pittsburgh and that the LCN had recently initiated a recruitment campaign to replenish the family ranks.

The Pennslyvania Crime Commission also concluded that a concentrated effort on the Genovese/LaRocca family would have "an enormous impact, perhaps comparable to that encountered by Cleveland's Licovoli LCN family, which was devastated by prosecution's" brought by the FBI and the Cleveland Strike Force.

Thus, while the LCN families in the major metropolitan areas surrounding Pittsburgh were decimated by Strike Force led investigations, the worst that was happening to the LaRocca/Genevese LCN family in Pittsburgh was that they were getting old. As noted by the Crime Commission, the Pittsburgh LCN as of last year is beginning to rejuvenate itself. I would suggest to the Committees that had the Strike Force not been closed by Assistant Attorney General Thornburgh in 1976, there wouldn't be any LCN figures left in Pittsburgh to rejuvenate that family.

IV. CHICAGO - PENDORF

When I was first assigned to the Chicago Strike Force in December of 1969, I found exactly the type of situation that professional law enforcement officials now fear will result if Attorney General Thornburgh's proposal is implemented. The Chicago Strike Force was the successor to a special prosecutions unit within the U.S. Attorney's office. That unit had originally been staffed by Department of Justice attorneys assigned to the U.S. Attorney's office by then Attorney General Robert F. Kennedy. However, rather than continuing its mission as envisioned by the Attorney General, the unit had become merely another group of prosecutors being utilized by the United States Attorney for often times general criminal investigations. This situation developed because the Strike Force continued as a unit in the United States Attorney's offices under the direction of an Assistant U.S. Attorney and the U.S. Attorney therefore considered the resources of the Strike

Force as his resources to utilize as he chose. The Organized Crime and Racketeering Section (over the resistance of the U.S. Attorney) dispatched a Deputy Chief of the Section to get the Strike Force back on track as an Organized Crime prosecution office separate from the United States Attorneys' office.

In 1978, when I returned to Chicago as Attorney In Charge, the Chicago Strike Force was in the midst of fulfilling its originally designated mission of pursuing Organized Crime and became actively involved in the Argent, Strawman and Pendorf investigations, the latter of which was centered in Chicago. Pendorf began in late 1978, when information from electronic surveillance in Kansas City and Las Vegas, coupled with investigative effort in Chicago, provided a predicate for the establishment of probable cause to install Title III electronic surveillance in the offices of Allen Dorfman and his Amalgamated Insurance Agency. Allen Dorfman was the point man in Organized Crime's manipulation, through the Chicago LCN, of the Central States Teamsters Pension Fund. The original focus of the electronic surveillance was a skimming investigation.

Once the interceptions began, it was clear that a great deal of information was being generated from the wiretaps and that continuation and expansion of the electronic surveillance over the ensuing months was critical. In all, the electronic surveillance of Allen Dorfman lasted 13 months and generated literally thousands of reels of tape. It was during the course of this electronic surveillance that we learned of the conspiracy to bribe then U.S. Senator Howard Cannon by Roy Lee Williams, Allen Dorfman and others.

An intensive Grand Jury Investigation following the thirteen months of electronic surveillance ultimately resulted in the indictment and conviction of Roy Williams, then President of the International Brotherhood of Teamsters, Allen M. Dorfman, Joseph Lombardo, a Capo in the Chicago LCN, and two Pension Fund trustees.

The Pendorf investigation took almost five years. During this period extensive resources of both the Strike Force and the FBI were dedicated to this long-term investigation. For eighteen months, as an example, three attorneys were devoted on a full time basis to the electronic surveillance, including analyzing the results of the wiretaps, preparing reports to the court every five days, drafting extension applications and coordinating the use of the information being gathered. Reviewing thousands of pages of documents and interrogating numerous witnesses required even additional committments of attorney resources.

Not only was the Pendorf investigation exceedingly lengthy and complex, but constant communication and exchange of information was occurring as electronic surveillance and other investigative techniques were being pursued in Chicago, Kansas City, Las Vegas, Cleveland, Sacramento, Los Angeles, San Diego and other locations. The amount of coordination and national planning administered by the Organized Crime and Racketeering Section was absolutely critical to not only further the various investigations and to coordinate them, but to establish priorities as to where cases would be prosecuted and when charges would be brought. Anyone familiar with Federal Law Enforcement recognizes that autonomous United States Attorneys could not have been directed when and where to dedicate their resources or when to bring indictments and more importantly, when to forego prosecutions so that a more expansive case could be brought in another jurisdiction.

During the pendency of the Pendorf investigation, the Chicago Strike Force was also pursuing the Milwaukee LCN. This first took the form of assisting the FBI in an undercover investigation involving the establishment of a vending machine business in direct competition with a business controlled by Frank Balistrieri, boss of the Milwaukee LCN. The investigation not only resulted in a Hobbs Act prosecution against Frank Balistrieri, but it also spawned the institution of electronic surveillance at Frank Balistrieri's restaurant and office. The microphone and telephone surveillance in turn resulted in obtaining evidence pertaining to the skimming activities of the Mob in Las Vegas. It was during this investigation that we learned that Balistrieri made periodic trips to Chicago to pick up his portion of the skim from the Chicago LCN.

The results of the Pendorf investigation and Balistrieri cases were utilized in the Kansas City prosecution of Joseph Auppa, Chicago LCN boss and others by the Kansas City Strike Force. The Auppa case could just as easily have been brought in Chicago and I must admit that I lobbied for that result. However, it was determined, and correctly so, that the best place to bring the case was Kansas City. No one can seriously contend that the chief of the OCRS could possibly have instructed the United States Attorney in Chicago to turn the results of years of investigation over to a smaller office which would then be responsible for the prosecution of the leadership of the Chicago LCN.

In both the Pendorf and Balistrieri cases, close coordination was maintained with the respective United States Attorneys. As required by the guidelines, the Chicago United States Attorney's office was kept apprised of the Pendorf electronic surveillance and the Title III applications were made in the name of the U.S. Attorney, Thomas Sullivan. Progress reports, however, were made to Mr. Sullivan's first assistant since Mr. Sullivan had recused himself from this case as a result of his former law firm's prior representation of Allen Dorfman. [Subsequently, United States District Court Judge Prentice H. Marshall rejected Mr. Sullivan's attempt, after returning to private practice, to represent Allen Dorfman in the Pendorf prosecution.]

In Milwaukee, not only did the United States Attorney assign Assistant U.S. Attorneys to work with the Strike Force on the electronic surveillance, but she also received detailed information on the progress of the Hobbs Act undercover operation. The only problem in connection with the U.S. Attorney that occurred in the Balistrieri case was our disagreement with the United States Attorney's desire to quickly return an indictment in the extortion case. The Strike Force opposed this action because two undercover agents were still involved in undercover investigations in other parts of the country. The FBI subsequently determined that the U.S. Attorney was anxious to indict because she had provided details of the case to a local reporter who in turn was anxious to "break" the story.

During my twelve years in Chicago, the Strike Force enjoyed an excellent relationship with the six different United States Attorneys who held office during this period. The same relationship also existed with the four U.S. Attorneys who were appointed in Milwaukee. Although from time to time there was occasional competition, the end result was a greater expenditure of effort by the Strike Force as well as the U.S. Attorney in prosecuting Organized Crime cases. On the other side of the coin, a number of high profile United States Attorneys' cases originally developed in the Strike Force were transferred to the United States Attorneys' office when it was determined that they did not have sufficient Organized Crime connection to remain in the Strike Force Program. Included among these were the police extortion cases in the early 70's prosecuted by now Governor James R. Thompson, the Greylord Investigation, and a number of recent prosecutions relating to murder and public corruption. The latter cases arose from the Strike Force/FBI project called "Safe Bet". Prosecutions of LCN members or associates arising from "Safe Bet" were undertaken by the Strike Force; a combined organized crime/public corruption case was prosecuted with one attorney from the Strike Force and one attorney from the United States Attorneys' office; and a case involving a murder for hire participated in by local law enforcement officials was prosecuted by the U.S. Attorneys' office alone.

The above-described facts demonstrate that the cries of dysfunctional competition and counterproductive disputes between Strike Forces and U.S. Attorneys as trumpeted by Mr. Thornburgh are, in my experience, simply not true. As a matter of fact, the clear message and directive from the Organized Crime and Racketeering Section management has consistently been to "get along" with the U.S. Attorney. The Organized Crime Section did not want to become enbroiled in disputes with the U.S. Attorneys and it was quite clear that no such conflicts would be tolerated by Justice management.

V. FACT vs. FICTION

My experiences and the conclusions which I draw from these experiences are not unique. A multitude of professional law enforcement organizations and Citizens Watchdog groups have shouted a warning that Mr. Thornburgh's proposal will have a devastating impact upon the Federal Governments' fight against Organized Crime.

Likewise, FBI Director William Sessions testified in the 1988 Organized Crime Hearings of the Permanent Subcommittee on Investigations that the Strike Forces had played a "valuable" role in the FBI's success in Organized Crime investigations. FBI Executive Assistant Director of Investigation, Olive B. Revell also noted the advantages of a separate Strike Force Program. Mr. Keeney, then Acting Assistant Attorney General of the Criminal Division, emphasized to the Permanent Subcommittee in his testimony that a continuation of the successful efforts of the Strike Forces was crucial to the further reduction of the threat of Organized Crime. Of course, these opinions were all expressed prior to Mr. Thornburgh, as Attorney General, imposing his peculiar concept of fighting Organized Crime on the Department of Justice.

Perhaps recognizing the lack of support of professional law enforcement and career Department of Justice prosecutors, Mr. Thornburgh has attempted to justify his proposal by misleading references to "conclusions" supposedly reached by other Attorney Generals and the GAO. For example, in Mr. Thornburgh's plan of reorganization submitted to Congress, reference is made to the U.S. Attorneys' Advisory Committee recommendation in 1974 that the Strike Force offices be merged into the United States Attorneys' offices. The submission, however, does not reveal that the author of that Report was Richard Thornburgh, then United States Attorney in Pittsburgh. Nor is it disclosed that after an intensive review by both the Department of Justice and GAO, this proposal was rejected by the Attorney General. Instead, the 1976 U.S. Attorney/Strike Force Guidelines were inplemented.

Congress was also told that Attorney General Meese had reached no final conclusion concerning the issue of consolidation as raised by the U.S. Attorneys Advisory Committee in a 1987 recommendation. This is simply not true. The April, 1989 GAO Report referred to by Mr. Thornburgh in his submission to Congress makes it abundantly clear that Attorney General Meese did in fact resolve the issues presented in the 1987 Advisory Committee's Report. The GAO Report states:

> Additional papers were provided by both parties, and the Advisory Committee proposed a compromise in which Strike Forces would not be merged into U.S. Attorneys' offices, but U.S. Attorneys' influence over Strike Force operations would be increased. The Attorney General issued an Order on January 20, 1988 that reflected this compromise position.

Furthermore, the Attorney General's submission to Congress gave the distinct impression that the 1989 GAO Report was highly critical of the Strike Force operation and barely stopped short of recommending the proposed merger. In actuality, the primary focus of GAO's criticism was the conduct of the United States Attorneys themselves in fighting Organized Crime. Specifically, GAO criticized United States Attorneys for not establishing, as required by the 1976 Attorney General Order, Executive Committees within each jurisdiction where Strike Forces were located in order to coordinate and plan a comprehensive program against Organized Crime in that district. The GAO Report also noted that fewer than half the United States Attorneys had submitted their strategic plans for combating Organized Crime as required by the January 1988 Attorney General Order. Rather than criticizing the existing coordination efforts of the Organized

Crime and Racketeering Section, as Mr. Thornburgh implies, GAO noted: "OCRS and the National Organized Crime Planning Council have provided top-level planning and coordination by setting national priorities and monitoring Strike Force activities." GAO went on to point out that even though United States Attorneys had failed in large measure to establish Executive Committees, Strike Force attorneys had achieved informal coordination and planning, at the local level, through their own individual efforts.

The GAO Report also noted the following concerns in regard to the Attorney General's proposed merger:

> "Disadvantages might included reducing long-term devotion of staff to Organized Crime cases if U.S. Attorneys' shift staff to other priorities. Also, as new U.S. Attorneys are periodically appointed, U.S. Attorneys' office interest and capabilities related to Organized Crime might fluctuate."

It was the recognition of this very "fact of life" that prompted the creation of the Strike Force program as we know it today. For, as GAO noted in its report, "the war against organized crime deserves careful planning, coordination and centralized management and monitoring by the Department of Justice." The very nature of a United States Attorneys Office is antithetical to what GAO has recognized to be the essential ingredient in the fight against organized crime.

VI. CONCLUSION

Rather than bringing an end to the most successful Justice Department program ever undertaken against a national crime problem, the lessons and techniques learned from the Strike Force experience should be applied to combat new and emerging organized criminal groups.

For example, the Department of Justice efforts to combat narcotics trafficking, first through the Office of Drug Abuse Law Enforcement (ODALE) program and now through the Organized

Crime Drug Enforcement Task Forces (OCDETF) have been singularly unsuccessful in attacking the organized criminal cartels responsible for the importation and distribution of narcotics in the United States. The hallmark of both of these programs, besides their expense, was the incorporation of field offices within the United States attorneys' offices. Supposedly each unit was staffed with "dedicated" resources from the U.S. Attorney's office. The elements necessary for a successful program, however, were lacking: 1) experienced career prosecutors familiar with both the crime problem and the tools to combat it; 2) continuity of intensive investigative and prosecutive effort, and; 3) a nationally directed and coordinated attack. Rather than learning from prior institutional mistakes of the Department of Justice as well as its institutional successes, the present Attorney General is going back in time and ignoring the lessons that history should have taught us.

I firmly believe that the United States Senate must prevent the implementation of Mr. Thornburgh's ill-conceived and reprehensible plan to destroy the Strike Force Program. To allow Mr. Thornburgh to accompish his objective would set back this country's efforts against Organized Crime, both traditional and emerging, a quarter of a century. Our country can ill afford such a folly.

Thank you for the opportunity to address you on these issues.

Cochairman NUNN. Mr. Slaby.

STATEMENT OF LYNN C. SLABY, PRESIDENT, NATIONAL DISTRICT ATTORNEYS ASSOCIATION

Mr. SLABY. Thank you, Mr. Chairman. I certainly am pleased and honored to have been asked to participate in this distinguished panel. As you know, I am president of the National District Attorneys Association. However, I am simply a mere prosecutor in the county of Summit in the State of Ohio; the major city is Akron.

However, in my position as prosecuting attorney in that area, I was elected as president of the National District Attorneys Association, for which we have over 7,000 members, prosecutors and assistant prosecutors, within the forces across the country.

Our organization and our association deals mainly with fighting the typical murderers, robbers, rapists, drug dealers on the streets of our communities, although we have been brought into more organized type of crime activities, especially in the drug areas and drug trafficking and prosecutions.

It is my honor to represent the views of the National District Attorneys Association in this particular matter before this committee. I would respectfully request that my entire prepared statement be entered into the record and made part of the record.

Cochairman NUNN. We will put all of the entire statements into the record, without objection.

Mr. SLABY. In order to keep my particular part of this presentation short, I will not read that entire transcript. I would simply indicate to you, Mr. Chairman, that we do take issue with some of the comments made as far as the desires of the U.S. attorneys seeking—desires to have more power and glory and that is the reason for having the change of the strike force brought into the U.S. attorney's office. Some of the other comments made of the political aspirations of some individuals within the U.S. attorneys' offices, I think we also take issue with, but you can read those in the prepared testimony.

I would like to, however, mention a couple of things, and that is we truly feel, first and foremost, that the merger of the strike force into the U.S. attorney's office is a managerial decision, one that Attorney General Thornburgh is fully competent to carry out. And absent any unusual or irrebuttable presumption of incompetency, that managerial decision should be carried out by the person who is placed in charge of those decisions.

We have looked at it from the National District Attorneys Association's perspective and believe that this managerial decision is a very sound one and very worthy in nature. It will maximize coordination between law enforcement agencies in the war against organized crime. It will result in administrative and logistical savings at a time when Federal resources are extremely scarce.

It will eliminate time and resource-consuming turf battles which promote confusion rather than coordination of prosecutive missions. It certainly will increase the breadth of the U.S. attorneys' authority, making it easier for them to forge crucial alliances with State and local prosecutors and law enforcement agencies. And it will revitalize and strengthen the Government's efforts by bringing the experience and resources of the U.S. attorney's office to bear on the problems.

We believe as the National District Attorneys Association that it will foster stronger cooperation between local and State prosecutors and the U.S. attorneys and their offices and their efforts.

I have heard some key words about the dismantling of the strike force. I don't think that anybody that is proposing or looked at the proposed merger has indicated that there would be a total dismantling of the efforts to fight organized crime.

We have talked about turf wars and whether or not turf wars are an issue. We think that as a turf war battle, at the worst, if, in fact, that is true—if, in fact, there are turf wars, if the merger took place under the U.S. attorney's office, at least those wars and those battles would be resolved internally and not be a major problem between organizational efforts. It would only be a matter of managerial efforts.

We feel that the focus of prosecution has changed over the last 20 years, that the need for the change of management and the direction of management should change and be focused upon the times.

If we look at what is developing as far as the problems of the drug-related organized crime units, I think we can see that an organized, coordinated effort to fight those organized crime efforts would eliminate the turf wars that might continue to exist or escalate in nature. Having the management authority under the one office of the U.S. attorney's office would eliminate the possibility or the potential of additional wars of who is, in fact, going to prosecute those particular type of crimes.

We think that if Attorney General Thornburgh is going to be held accountable for his actions, then he should be given the tools and allowed to manage in the way he has been challenged and deemed responsible to manage that office. We think he has the capabilities. We support him in his efforts to merge the task force into the U.S. attorney's office, and that is the support of the National District Attorneys Association with almost 7,000 members.

[The prepared statement of Mr. Slaby follows:]

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STATEMENT

OF

HONORABLE LYNN C. SLABY
PROSECUTING ATTORNEY
SUMMIT COUNTY (AKRON), OHIO
AND
PRESIDENT
NATIONAL DISTRICT ATTORNEYS ASSOCIATION

BEFORE THE

SENATE COMMITTEE ON THE JUDICIARY

AND THE

SENATE COMMITTEE ON GOVERNMENTAL AFFAIRS

CONCERNING

ORGANIZED CRIME STRIKE FORCES

ON

SEPTEMBER 8, 1989

I am pleased that we have been invited to express our views concerning Attorney General Dick Thornburgh's proposed merger of the Organized Crime Strike Forces with the United States Attorneys' offices. The National District Attorneys Association is on record in strong support of the Attorney General and I have attached a copy of a resolution of the NDAA Board of Directors to this effect.

We believe that, first and foremost, the Attorney General's proposed merger of the Strike Forces with the United States Attorneys' offices is primarily a management decision and one that the Attorney General has both the authority and, absent compelling reasons to believe otherwise, the competence to make. In fact, Dick Thornburgh's distinguished career as a United States Attorney, as head of the Criminal Division of the Department of Justice, as a two-term governor of the State of Pennsylvania, and now as the Attorney General of the United States suggests to us an irrebuttable presumption of managerial competence to make the instant decision.

If the Attorney General possesses managerial competence, then what possible reason is there to substitute Congress' judgment for his. Is there a fear that his stated purpose for the merger is disingenuous, that he has ulterior motives in what he proposes? Is there a fear that his judgment has been adversely affected by undue pressure from some undisclosed quarter, the U.S. Attorneys, perhaps?

Mr. Jeremiah T. O'Sullivan, former Chief Attorney of the New England Organized Crime Strike Force and former interim U.S. Attorney for the District of Massachusetts, has testified before the House Subcommittee on Criminal Justice that "the motivation for the merger is fundamentally a desire for power and glory" on the part of U.S. Attorneys. The implication of this statement is that the Attorney General is being manipulated by the U.S. Attorneys, a preposterous idea to anyone who knows Dick Thornburgh. This Committee, which voted unanimously for the confirmation of Dick Thornburgh as Attorney General of the United States, certainly cannot harbor such doubts. The statement implies that Strike Force attorneys have less passion for "power and glory" than U.S. Attorneys, an incredible statement on its face.

The gentleman also states that "anyone familiar with multi-jurisdictional investigations knows only too well the bureaucratic infighting among prosecutors' offices for headline-making cases" and that the "multi-jurisdictional nature of the Strike Forces avoids much of this type of fighting because of the wide sweep of each Strike Force's jurisdiction." This suggests that the greater the jurisdiction the smaller the ego. I would submit to you that it is unlikely that Strike Force attorneys are less anxious than

U.S. Attorneys to see the product of their labor reported by the media.

Mr. O'Sullivan takes the Attorney General to task for suggesting that U.S. Attorneys will be able to capitalize on "local clout and personal ties" and states that such a statement implies that the fight against organized crime requires local "political connections." He further states that Strike Forces were set up, in part, to avoid the "connections" that come from being part of the local political scene, "where political friendships can sometimes create 'awkward' situations and the appearance that politics plays a role in prosecutorial decisions." This statement suggests that Strike Force attorneys are less susceptible than U.S. Attorneys to local political pressures that might tend to play an improper role in their prosecutorial decisions. This statement unjustly calls into question the integrity of all U.S. Attorneys and is unworthy of the gentleman who made it.

While I do not feel obliged to defend U.S. Attorneys - they are quite capable of defending themselves - I single out and take issue with some of Mr. O'Sullivan's remarks because his long service as a Strike Force attorney requires us to give his statements considerable weight, especially relative to the technical and legal aspects of fighting organized crime. However, I would suggest to you that the very service that qualifies the gentleman as an expert also burdens him in this instance with a lack of objectivity and a bias in favor of the status quo.

The United States Attorneys are the chief federal law enforcement officials in their districts and the Attorney General feels that a merger of the Strike Forces with their offices will serve to reaffirm that fact and enhance the U.S. Attorneys' ability to coordinate complex, multi-agency cases. We very strongly agree.

The Attorney General feels that the merger will expand and improve the Justice Department's efforts against organized crime. We believe that based on his vast experience and the experience of those upon whose advice he relies that the beneficial results predicted by the Attorney General will be realized.

It is the Attorney General's judgment, based upon his own experience and on the experience of his advisors, that the proposed merger will effect greater efficiency and better coordination of law enforcement efforts and eliminate wasteful turf battles. We submit that there is no one in a better position to make such predictions.

The Attorney General is of the view that the proposed merger will promote greater use of effective civil sanctions against organized crime figures, including civil forfeiture under the RICO statute; injunctions and restraining orders; and civil fines. We are convinced that this will, indeed, occur.

The Attorney General has assured Congress and those of us with an equally intense interest that the strike forces will continue operating as distinct and undiluted entities within the U.S. Attorneys' offices with dedicated, separately funded resources at least equal to those transferred from the strike forces. In fact, the Attorney General feels that the merger will provide the Strike Force Units with critical additional administrative and prosecutorial support from existing staff within U.S. Attorneys' offices. We are comfortable with this assurance that there will be no diminution of effort against organized crime and we are confident that once these hearings are concluded Congress will feel equally comfortable.

Part of the Attorney General's consolidation plan calls for the carving from the ranks of existing Strike Forces a highly mobile Strike Force team and placing it within the Organized Crime and Racketeering Section of the Department of Justice's Criminal Division to provide support to U.S. Attorneys with a need for short-range assistance. We believe that this is a wise management decision which will maximize the use of the limited talent available for this difficult, specialized task.

In closing, we would submit to you that the Attorney General should be allowed to proceed with the task with which he has been entrusted - the management of the Department of Justice.

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OFFICIAL POLICY POSITION

Federal Organized Crime and Racketeering Strike Forces

After years of separation of the Department of Justice's Organized Crime and Racketeering Strike Forces from the U.S. Attorneys' offices, it is now time to consolidate these two law enforcement efforts.

Consolidation will serve a multitude of worthy purposes:

a) It will maximize coordination between law enforcement agencies in the war against organized crime;

b) It will result in administrative and logistical savings at a time when federal resources are exceedingly scarce;

c) It will eliminate time- and resource-consuming turf battles which promote confusion rather than coordination of prosecutive missions;

d) It will increase the breadth of U. S. Attorneys' authority, making it easier for them to forge crucial alliances with state and local prosecutors and law enforcement agencies; and

e) It will revitalize and strengthen the government's efforts by bringing the experience and resources of the U.S. Attorneys' Offices to bear on the problem.

For these reasons, the National District Attorneys Association endorses Attorney General Dick Thornburgh's plan for consolidation of the federal Organized Crime Strike Forces with the U.S. Attorneys' Offices.

Adopted by the NDAA Executive Committee this 6th Day of May 1989 at Washington, D.C.

Cochairman NUNN. Thank you very much, Mr. Slaby. You know, one of the problems we haven't talked about this morning, but holding someone accountable—I agree with that concept completely, but I think the first 5 years I was in the U.S. Senate, we had at least six Attorneys General, and it is awfully hard to hold people accountable. They turn over as much sometimes as the U.S. attorneys turn over, or as anyone else. So accountability in the Federal Government, particularly on long-term problems that take 5 to 10 years to really measure, is extremely difficult with the turnover rate we have.

Now, perhaps Attorney General Thornburgh will be the exception, but we have had—I don't know how many Attorneys General we have had since I have been in the Senate. I would have to count them up, but probably it has averaged about an 18-month tenure is my guess.

Mr. Helfrey.

STATEMENT OF DAVID B.B. HELFREY, ATTORNEY, GUILFOIL, PETZALL & SHOEMAKE, AND FORMER STRIKE FORCE CHIEF, KANSAS CITY, MO

Mr. HELFREY. Thank you, Senator Nunn. It is a real pleasure today to appear before the subcommittee to present my views on this important issue. My position, of course, is clear. I am opposed to the recommendation of Attorney General Thornburgh.

It is somewhat difficult being the last speaker to come up with something new to say, since much of my remarks have been covered in one form or another by the prior speakers. I thought perhaps I could approach it a little bit differently by relating to you a comment that was made to me one time by George Lehr, who you may be familiar with. He was the former State auditor in Missouri and was the former executive director of the Central States Pension Fund controlled by the Teamsters.

Cochairman NUNN. I remember him well.

Mr. HELFREY. Now, deceased, unfortunately. But he told me one time in a discussion that if he was under investigation for a criminal offense that it would be his preference to be investigated by the strike force if he was guilty of that offense and to be investigated by the U.S. attorney's office if he was not guilty of the offense—or did I get that backwards now? No, that is right.

And I think the point that he was trying to make and what he was telling to me and what I interpreted him to say was that there is a difference in philosophy and a difference in responsibility between the two offices. The strike force concept basically envisions the idea of developing data for, over a long period of time, intelligence, how the organization operates, the LCN, the Mafia, who the weak links are, where the avenues of income come from, where the weak links are in those avenues of income.

And it involves not just skimming off the top, the boss or the current leader or the high-profile figure, but it involves rooting out, getting down into, and eradicating the organization as a viable criminal unit.

Now, I am not being critical of the U.S. attorneys in this regard because I view their job differently. They have a responsibility across the board, from securities fraud to Hobbs Act to car theft. And as a practical matter, there are limited resources. They do not root out, down to the "nth" degree any particular criminal threat posed by any group or activity in the society.

In Kansas City today, for example, there has been a recent investigation of political corruption originating in the Independence, MO, area. There is great controversy and criticism of the U.S. attorney's there for having skimmed the top couple people and not eradicating and digging out the problem within the infrastructure of the city itself. That is the difference in approach.

The OCDETF Program has been mentioned by the Attorney General as a success. In my judgment, it has been nothing that could even be closely resembling a success. If that is a successful program, we don't need a drug czar, we don't need the President on television telling us we need to do additional things, we don't need Congress holding hearings on it all the time.

It has been just another standard program, and I frankly was shocked by the statistics cited by Judge Bonner of a couple thousand convictions by the OCDETF Program. If there is anything that is easy to make in this country, it is a drug case. You can make thousands of them. I was surprised there weren't 20,000 convictions.

The problem with the program is that you have the rotating personalities, the rotating attorneys. You have the failure to dig in deep and try to eradicate the program from the ground up. You skim the cream; you take the easy case, you take the high-profile case and you run with that. The OCDETF Program is not going to be successful until something more basic is approached in terms of eradicating the drug problem.

There is mention made by the Attorney General that the New York example is proof positive of the success of the merger of the program. To some degree, I think that has been debunked by the testimony presented here today. I would only add one other comment to the comments already made in that regard, and that is—and, again, it is a function of how a U.S. attorney's office operates.

Rudolph Giuliani did a tremendous, bang-up job on a bunch of cases that were started largely before he came there and which he reaped substantial publicity for and made substantial progress. I would ask you today, though, what cases are being prosecuted in Manhattan of significant organized crime activities since Giuliani changed the focus of that office to Wall Street corruption and political corruption.

That is what happens with U.S. attorneys; the focus changes and the talent changes with it. The aggressive prosecutors and the agents who want to keep up with the trend move with the flow, and so you don't see these major cases. And I haven't heard anybody suggest that traditional organized crime, Mafia organized crime, has been wiped out in Manhattan. It is still the center of organized crime in this country. So I view that as misplaced.

The idea of experience—I don't think when we talk about experience of prosecutors that we are talking about how many years they have been on the payroll. If that is what we are talking about, I suspect that the statistics cited are correct that there isn't that much difference.

What we are talking about, in my judgment, is the experience of people doing these kinds of in-depth investigations which require years and years of effort. In that, I would suggest, the strike forces stand out singularly. That doesn't mean U.S. attorneys' offices, when they choose to, can't devote the necessary resources and attention. The problem is, on a consistent basis, they don't and won't do so because their priorities change.

The issue of more resources being available to a merged unit as opposed to a separate unit, I suggest to you is a red herring. I, as a strike force chief, had occasion to deal with U.S. attorneys in Denver, Omaha, Oklahoma City, Tulsa, Kansas City, St. Louis, and even South Dakota, and when I needed talents that weren't available to me, such as handling civil litigation, I turned to the U.S. attorney's office and I never once was turned down and I found them most receptive to doing that. That type of talent is still available and has been worked out on the local level with relative ease.

I have found in my dealings with the U.S. attorneys that even with Bob Ulrich, who was the U.S. attorney in Kansas City and who chaired the Attorney General's Advisory Committee that made the recommendation that Attorney General Thornburgh is acting upon, that we had no difficulties.

I can't think of one major dispute that I had with Bob Ulrich during his two terms in office. All of them ran smoothly. He handled the publicity, he saw each case we opened up, he was kept. And we debated this issue on numerous occasions and it always basically came down to that while I was a nice guy and I could run this operation okay, it was a derogation of his authority. I was almost, in a sense, an affront that I was there; it took away from U.S. attorneys. And it is too bad that it is interpreted that way because that shouldn't be the attitude. We were not an affront to him. We complemented him and we recognized him as the U.S. attorney, and certainly as the chief prosecutor in the district.

A suggestion was made by the Attorney General that he is going to form a council which is going to be made up of high-powered Government leaders who are going to set this program and make it work. You know, practically, that is silly.

First of all, these people aren't going to meet and are not going to be directing a program of this nature. They are all very busy people in and of themselves. You have an existing council now which has been in existence for a long period of time and which has basically atrophied on the vine. They have no authority; they can't direct a U.S. attorney on what to do. The Attorney General can't even fire him; he has got to go to the President. I don't view that as adding much.

On the issue of depletion of resources or whether this is the abolition of the strike forces as a really effective unit, I only suggest that you can look at what the U.S. attorney in Detroit has said, that he is going to put all the strike force attorneys on drug cases once he takes over, leaving one to traditional organized crime. That is what is going to happen; they are going to go to the priority people.

You heard the war story told by Kurt Muellenberg. That is what happens. The U.S. attorney is going to allocate the resources to what he or she thinks is the major problem of the day.

I would also just point out, when significant matters came up in the past—for example, the investigation into the murder of Judge Woods in San Antonio—when they wanted to have a prosecution unit to put together a theory to support electronic surveillance at Leavenworth Penitentiary on the believed individual, Jamil Chagra, who hired that murder, they didn't turn to the U.S. attorney's office; they came to the strike force—clearly, not an organized crime case.

And I might add, at that time, that is a case, of course, Director Sessions presided over as the U.S. District Judge, and it is a case that Floyd Clark, who is now the Deputy Director of the FBI, was the SAIC in Kansas City at the time.

I would point out the prosecution of the son of the founder of the Black Muslims which took place in Kansas City. That case was brought to the strike force, not an organized crime case. The U.S. attorney in that case refused to sign the indictment until ordered by the Department of Justice to do so because he viewed it as a political liability.

The point is that these strike force units have been and are successful. You are talking about undoing 20 years of institutional memory, and it will be gone overnight and it will take you another 20 years to recreate it after a year in a merged position with the U.S. attorneys' offices.

There will be rotation of personnel. The criminal division in the District of Columbia is not going to stand up to a U.S. attorney and say I am not going to allow you to put "x" in that office; I am not going to allow you to rotate "y" out of that office. It is going to happen; it is going to disappear.

You have, in my judgment, one of the few Federal programs that has proven itself to be remarkably successful and you are on the verge of abolishing the only successful effort against organized crime this country has ever seen.

Thank you.

[The prepared statement of Mr. Helfrey follows:]

STATEMENT OF DAVID B.B. HELFREY
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
United States Senate
September 8, 1989

RE:

HEARINGS ON THE STATUS OF THE FIELD OFFICES OF
THE ORGANIZED CRIME & RACKETEERING SECTION,
CRIMINAL DIVISION, UNITED STATES DEPARTMENT OF JUSTICE
(STRIKE FORCES)

MR. CHAIRMAN, DISTINGUISHED COMMITTEE MEMBERS AND OTHER INTERESTED SENATORS - GOOD MORNING,

I was requested by members of the Subcommittee staff, and the staff of Senate Judiciary Committee to present my views on the proposal of Attorney General, Richard Thornburgh, to merge the Strike Force offices into the United States Attorneys' Offices throughout the country. I appreciate the interest of the United States Senate in having me present my viewpoint on this matter and I am most pleased to do so.

Allow me to introduce myself. My name is David B.B. Helfrey. I am currently a partner with the law firm of Guilfoil Petzall & Shoemake located in St. Louis, Missouri and I specialize in all forms of litigation. Ninety plus percent of my time is taken up by civil business litigation. I am a graduate of Northwestern University School of Law and my early years as an attorney were spent with the Judge Advocate General's Corps, United States Army. In 1974, I joined the United States Department of Justice, Organized Crime & Racketeering Section and was assigned to the Kansas City Strike Force. I was with the Strike Force for a period of 12 years, the last six years of which were as the

Attorney-in-Charge of the Kansas City Strike Force. I remained in that position until March of 1986 when I left to enter private practice.

The existence and the institutionalization of organized crime in the United States is a well-documented chronicle which dates back at least 80 years. The federal government's response to this institutionalization and the very real threat of organized crime has, at best, been sporadic and uncoordinated until the creation of the Strike Force units in the late 1960's and early 1970's. The successes of these nation-wide Strike Forces in penetrating and seriously impeding the growth of organized crime and in removing its aura of invincibility is well-recognized by all law enforcement experts and scholars versed in this area.

My basic position is contained in my letter addressed to the Honorable Samuel Nunn of April 11, 1989 which I have appended to this statement. I believe my position in this regard will withstand any intellectually honest probing. The position that I take in support of the retention of Strike Force Offices -- independent of the United States Attorneys' Offices -- is one which I have carefully considered over the years and one which, on numerous occasions, I have debated with former United States Attorney Bob Ulrich of the Western District of Missouri, who, as Chairman of the Attorney General Advisory Council, was one of the leading advocates of merging the Strike Forces into the United States Attorneys' Offices. My views are not a knee-jerk reaction to my membership and participation in an organization which I found challenging and rewarding and which I will always remember as the most memorable twelve years of my adult life.

The Strike Force, in terms of today's budget, represents a minor expenditure. The tremendous successes and rewards reaped from this program have been unlike any other federal program of which I am aware. The secret of the success of the Strike Forces comes from its recruitment of experienced attorneys, its exclusive dedication to the investigation and prosecution of organized crime groups on a long-term basis, and from its centralized supervision by non-political career prosecutors.

A specialized career unit such as the Strike Force permits the building of an institutionalized memory which ensures continuity in diverse investigations which involve, repeatedly, the same personalities and variances on common schemes. Specialized career prosecutors have the time, and the experience to build the necessary confidence of the investigators involved, and focus substantial resources (i.e., electronic surveillance, witness immunity, the powers of a special grand jury and the tactical use of confidential informants) on difficult but high impact investigations despite the extended nature of such investigations. These career prosecutors are more readily able to employ the more complex criminal laws such as the Racketeer Influenced Corrupt Organizations ("RICO") statute enacted by Congress in order to keep pace with the ever-increasing sophistication of organized crime. Additionally, centralized supervision ensures that the Strike Forces do not stray from their assigned mission, thereby preventing or minimizing "turf" battles between the Strike Forces or with other prosecution offices.

The United States Attorneys' Offices are not set up to deal with sustained long-term investigations and I am not being critical of the United States Attorneys' Offices, I am only recognizing the reality that United States

Attorneys' Offices have a different function than that of the Strike Forces. The United States Attorney's Office, of necessity, responds to the issue of the day and are much more responsive to public opinion and political initiatives. They, therefore, tend to focus their most talented resources on the high profile, but quickly resolved, cases which have significant impact within their particular jurisdiction. Each United States Attorney's Office has its own priorities which change frequently and are appropriately disparate.

The United States Attorney is, of course, a presidential appointee. The practical supervisory authority of the Attorney General and his staff over the United States Attorney is by no means as clear as that of the Attorney General over the Strike Force Offices.

In my judgment a United States Attorney's Office, despite any good intentions to the contrary, will not be able to maintain and foster a strong Strike Force unit within its offices. Turf battles between United States Attorneys' Offices have frequently assumed epic proportions particularly in competitive environments such as the New York Metropolitan Area. This almost always results from a high profile investigation.

Competitive impulses dictate that the best and most ambitious prosecutors be assigned to the high profile cases. The United States Attorney will not, on a consistent basis, devote several attorneys to a single investigation which may not conclude in a prosecution during any given United States Attorney's term. There is not a surplus of prosecutors at the federal level. There is continual competition for the services of these prosecutors by the various federal investigative agencies and, more recently, by local police departments as well. As the priorities in the United States Attorneys' Offices shift, even if an attempt to maintain the separate identity of the Strike Force is made the Strike Force Attorneys will undoubtedly be directed to rotate to the high profile area currently being emphasized by the media and the United States Attorney.

Perhaps I can best illustrate my position by taking you through the history of two inter-related prosecutions of the leadership of the Kansas City Mafia and of the Chicago, Cleveland and Milwaukee Mafia leadership. I will refer to these cases as the "Tropicana" and "Argent" cases respectively. I have appended the Eighth Circuit Court of Appeals decisions in these cases to give you a fuller factual background underlying these investigations and prosecutions.

Probably everybody is familiar, either from grade B movies or the numerous books written about organized crime, with the popular belief of a corrupt connection between the Teamsters Union, the Mafia Dons and the Las Vegas gaming industry. Much of this popular folklore undoubtedly derives from the perceptions of law enforcement officials and the demonstrated connection between various Mafia leaders and various leaders of the International Brotherhood of Teamsters. There are many cases which established this corrupt linkage. There are also numerous cases and administrative hearings which established the corrupt influence of Mafia leaders in various Las Vegas casinos during the 1950's, 1960's and the 1970's. However, to my knowledge, there is no case which established beyond a reasonable doubt the existence of an unholy triangle among corrupt Teamster leaders, corrupt casino owners and/or managers and various Mafia families located throughout the United States. The cases of United States v. Carl DeLuna, et al., prosecuted in the Western District of Missouri did exactly that. These are the prosecutions I referred to earlier as the "Tropicana" and "Argent" prosecutions.

The ability to even recognize the possibilities of such a case is a credit to the institutional memory of the Strike Force prosecutors and Special Agents of the Federal Bureau of Investigation. In this regard particular credit should be given to career professionals such as Mr. Jack Keeney, the Deputy Assistant Attorney General for the Criminal Division and to Mr. Michael Defeo, Deputy Chief of the Organized Crime & Racketeering Section of the Criminal Division and to Special Agents of the Federal Bureau of Investigation such as Special Agent William Ouseley, who retired as a Supervisory Special Agent in 1985 and Special Agent Gary Hart.

These investigations commenced on or about April, 1978. Sentencing in the Argent case of the leaders of the Chicago, Cleveland, Kansas City and Milwaukee Mafias, and their Las Vegas representatives, occurred in March, 1986 after a four month trial. When I left the Kansas City Strike Force in March of 1986 there were still many leads yet to be pursued arising from the tremendous amount of evidence acquired by the Federal Bureau of Investigation in Kansas City, Las Vegas, Milwaukee, Chicago, Cleveland, New York and other Divisions.

Virtually a full eight years were spent in investigating, developing and prosecuting those two cases. It took at least another year for the appellate courts to affirm the convictions of these Mafia leaders. These investigations and prosecutions extended over three presidential administrations.

The close working relationship between the Federal Bureau of Investigation and the Strike Forces was absolutely essential to the success of these investigations and prosecutions. Close coordination and mutual trust between the Federal Agents and prosecutors was absolutely necessary. As you may be aware, substantial frictions and mistrust can, and do, develop among prosecutors, investigators and investigative agencies. Investigative agencies are, by necessity, highly protective of various investigative techniques such as the use of confidential informants. Basic trust and confidence develops from a joint commitment developed over a long period of time.

This investigation commenced, as I indicated, in April of 1978 when Special Agents of the Federal Bureau of Investigation in Kansas City, through its elaborate confidential informant system, developed information that an unidentified individual would be stalked and murdered by identified members of the Kansas City Mafia. The challenge we faced was to turn a non-specific statement of a confidential informant into probable cause for electronic surveillance of those individuals.

Most United States Attorneys' Offices have the agent prepare the probable cause affidavit to support a search or an application for electronic surveillance. I found the opposite to be most beneficial to the investigation. When the attorney drafts the affidavit with the Agent or Agents, the attorney develops an in-depth rapport with the agency, comes to understand better the agencies' concerns and brings the legal skills and creativity of the attorney into harmony with those of the investigator. Such an approach lessens the chances for any embarrassment by ensuring the attorney's understanding and therefore the Court's understanding of the precise facts which underlie the application. As mentioned previously, protecting the identity of an informant is frequently a serious concern of an investigative agency. A well-placed informant is an asset whose value cannot be over-estimated. Investigative agencies have been known to go to great lengths, including aborting an investigation or prosecution, in order to protect the identity of an informant. The

English language is rich enough for the attorney to accurately convey information to a federal court and yet protect an informant's identity or other investigative technique, and, thereby, enhancing the prosecutor's relations with the investigator.

Jointly, we pieced together an affidavit to support a request for electronic surveillance in the automobiles registered to the individuals identified by the confidential informant as stalking the unidentified victim. Since conspiracy to commit murder is not a federal crime the RICO statute was employed because it subsumes the state offenses of murder and conspiracy to murder. I note that RICO is a complex statute which was not widely-used in 1978. The information of the confidential informant proved to be murderously accurate. In May of 1978, Michael Spero, a powerful business agent of Local 41 of the International Brotherhood of Teamsters and a rival to the Civella-led Mafia group in Kansas City, was murdered in the Virginian Tavern near downtown Kansas City by masked gunmen. His brother, Joseph Spero, was wounded and a second brother Carl Spero was paralyzed by a shotgun blast in the back as he was fleeing the area.

In May of 1978, in an effort to gain evidence of this murder, we renewed our application for electronic surveillance of the automobiles and of a particular table at a restaurant frequented by Kansas City Mafia leaders. Electronic surveillance in a busy restaurant is difficult at best. The microphone, unlike the human ear, is unable to tone out extraneous sounds such as dishes clanking, jukebox music and people talking at nearby tables. However, an interception at the restaurant picked up phrases such as "$22 million dollars", "crazy" "genius" "Teamsters" and other isolated phrases uttered by leaders of the Kansas City Mafia.

All of us recognized, given the identity of the speaking parties and the use of code words, that the conversation was of importance and involved interests in Las Vegas. We could not have known at this time that this interception would lead to the development of proof beyond a reasonable doubt of the corrupt triangle between organized crime, the Teamsters Union and Las Vegas casinos. However, the institutional memory of Special Agents of the FBI and of Mike Defeo and Jack Keeney led to this investigative hypothesis. That interception led to a major commitment of resources by the Federal Bureau of Investigation, not only in Kansas City but in Las Vegas, Washington, D.C., Chicago, Cleveland, Milwaukee and other locations and by Strike Force prosecutors in Chicago, Washington, D.C., Las Vegas, Kansas City and other locations. Such coordination was possible due to the hierarchical structure of the FBI and the Strike Force.

The Kansas City Strike Force made application for ever-expanding and successive periods of electronic surveillance between June 1978 and February 1979. Court-authorized electronic surveillance was conducted of public telephones at several well-known hotels in Kansas City, of residence telephones of members of the Kansas City Mafia, of oral communications at the residences used by the Kansas City Mafia to meet with their confederates from Las Vegas and the Teamsters Union, of a law office used by Kansas City Mafia Boss Nick Civella and his confederates to conduct business, and of telephones located in businesses used by the Kansas City Mafia.

Coordination between the Strike Forces and the FBI offices in Kansas City and Las Vegas led to court-authorized electronic surveillance in Las Vegas of representatives of the Kansas City and Chicago Mafias operating there.

The agents of the FBI and attorneys of the Strike Force were required to cooperate very closely in such things as "minimization" so that the interception of non-targeted individuals would be minimized, in preparing 5-day reports to the court, and in the protecting of sources of information. We recognized that everything we did would be subject to scrutiny by the courts and thereafter by lawyers representing mobsters who would attempt to identify confidential sources, witnesses and investigative techniques. Also, in this time of limited resources it was essential that the mass of information acquired and the resulting leads, both in Las Vegas and in Kansas City, be culled for the most significant evidence and investigative direction.

As you can imagine the electronic surveillance developed numerous highly probative conversations between various members of the Kansas City Mafia and their representatives in Las Vegas, or confederates in other cities. However, these interceptions were characterized by the use of Sicilian, code words and poor grammar, often rendering the meaning unclear. As one FBI language expert testified, the defendants spoke "prison or underworld Italian", and these conversations were what could be described, at best, as elliptical in nature. While the meanings were clear to trained investigators and prosecutors, they had to be made intelligible to an average jury.

We concluded the first phase of the electronic surveillance in Kansas City in February of 1979, St. Valentine's Day, with the searches of the residences of many Mafia members in Kansas City, as well as of the Mob courier, who ran a junket service between Las Vegas and Kansas City, returning from Las Vegas. This courier when searched was found to have $80,000 in two $40,000 packets on his person. These packets of skim monies had been referred to in prior intercepted conversations as "two sandwiches". One "sandwich" equaled $40,000, representing the monthly skim from the Tropicana Hotel, which at this time was in dire financial straights. Simultaneously, Agents of the Las Vegas FBI office executed search warrants on the residences and businesses of Kansas City and Chicago Mafia representatives.

It became clear early on that there was a relationship between the Chicago and Kansas City Mafias both in the Tropicana investigation as well as in the Argent investigation. This led to Court-authorized electronic surveillance in the Northern District of Illinois of meetings of Mafia leaders and of the telephone communications of Mafia representatives. One was a Chicago police sergeant. Chicago and Kansas City were able to link Frank Balestrieri and his Milwaukee Mafia faction and the Cleveland Mafia "family" to this conspiracy in the Argent case.

The analysis of the data, the coordination of physical surveillance information with the intercepted conversations, the follow-through on the thousands of leads, and the broadening of the investigation from the relationship between Kansas City Mafia and the Tropicana Hotel Casino to other casinos and to the Teamsters leadership and to other Mafia families consumed the next 3-1/2 years. The development of evidence that would be admissible and intelligible in a court of law and which would not compromise the lives of confidential informants and techniques is a time-consuming process. The Strike Force devoted itself primarily to conducting the grand jury investigation as well as participating in the necessary strategic investigative decisions and the developing of witnesses. High stakes investigations bring with them substantial issues which must be resolved. The degree of trust and coordination between the two agencies of the Department of Justice was truly remarkable. Such is not often achieved.

The Tropicana case was indicted in the fall of 1981 and a conviction was obtained of all but one defendant in July, 1983. This prosecution gave us the opportunity to test the validity of the court authorized electronic surveillances. The Eighth Circuit Court of Appeals upheld the electronic surveillance and physical searches. Thereafter the grand jury returned an indictment of the Mafia leaders of the aforementioned four cities for maintaining a hidden interest in the Argent casinos.

Argent stood for Allen R. Glick Enterprises. Glick as a 34 year old received approximately $68 million dollars as a signature loan from the Central States, Southeast and Southwest Areas Pension Fund. The Mafia had developed, from at least the 1950's forward, the ability to control and dominate various Teamster leaders in the various metropolitan areas in which they operated. Such prominent teamsters as Roy Lee Williams in Kansas City and Jackie Presser in Cleveland as well as other such leaders in Milwaukee, Chicago and other locations fell into this category. The Central States Pension Fund, as its name implied, operated in the central part of the United States. In order to obtain approval for this loan to Glick it was necessary that the regional Mafia leaders and a majority of the Central States Pension Fund trustees cooperate. No single Mafia group controlled the Board of Trustees of the Central States Pension Fund in 1974.

(Parenthetically, I should make clear that the combined efforts of the U.S. Department of Labor, the Internal Revenue Service, the Federal Bureau of Investigation, the U.S. Department of Justice and the late Mr. George Lehr, the former Executive Director of the Central States Pension Fund, have turned that pension fund into a model for all pension funds.)

It is my thesis that the Teamsters Union structure provided a skeleton the various local Mafias throughout the United States used to enhance their national structure. For example, the loan to Allen Glick required the cooperation of at least the Milwaukee, Kansas City and Cleveland Mafias and their Teamster Union cronies.

Alan Glick promptly found himself the owner of the Argent Corporation which included the Stardust Hotel-Casino, the Marina Hotel-Casino, the Fremont Hotel-Casino and the Hacienda Hotel Casino in Las Vegas. Mr. Glick also learned very quickly that he was not really in control of these hotel casinos, despite his 100% ownership of the stock. A key government witness, Joe Agosto[1] told us at one point that a million dollars a month was being skimmed from the Argent Casinos and split by those four Mafia groups. The distribution of monies skimmed from the Argent casinos to these Mafia families was irrefutably established at the Argent trial.

It quickly became clear to all of the Strike Forces concerned that this was potentially one of the most significant organized crime cases ever prosecuted of the Mafia in the Midwest or perhaps even the nation. This fact could have led to terribly destructive bureaucratic maneuverings having seriously negative consequences for the investigation. The effective centralized leadership and the clear subordination of the Strike Forces to the Department of Justice, as well as enlightened leadership prevented any such destructive rivalries. The tremendous coordination even required for relatively minor matters, such as, the physical surveillance of Milton Rockman and Anthony Leonardo as they travelled from Cleveland to Chicago to pick up the Cleveland Mafia's share of the skim from corrupt Chicago Police Officers was a daily occurrence. The necessity to motivate the various Strike Forces prosecutors and investigative agents to creatively participate in and to develop probable cause for electronic surveillance, to creatively interview witnesses, and to do all the other investigative tasks which would primarily benefit a Kansas City case, is a difficult and practical problem that most United States Attorneys' Offices could not overcome. For instance,it has been clear from time to time from news coverage that a United States Attorney in the Eastern District of New York was not greatly concerned about devoting substantial resources to investigations that would be handled in the Southern District of New York and vice versa.

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[1] Joe Agosto, a Las Vegas representative of the Kansas City Mafia, died prior to the Argent trial.

The command and control mechanisms of the Organized Crime & Racketeering Section of the United States Department of Justice is routinely capable of insuring such cooperation as is the national office of the Federal Bureau of Investigation. The close working relationships established at the Washington, D.C. levels between the FBI and the Organized Crime & Racketeering Section substantially facilitied these investigations and prosecutions. The level of respect and trust that is required to be developed between the investigative agency and the prosecutor in order for something of this magnitude to be successful cannot be over emphasized.

The popular conception of the prosecutor to an investigator, whether fact or fiction, is that prosecutors develop a reputation for themselves in high profile cases and then take that experience and knowledge with them to make the "big bucks" as criminal defense lawyers. As an investigator, you want to be very careful with the type of the information that is shared with the prosecutor, so that information imparted is not subsequently used to the government's disadvantage in the long run. It takes years to overcome such perceptions. For such investigations as this to be successful, it requires a prosecutor or a team of prosecutors as sophisticated as the investigators. A lot of what we call sophistication is merely many years of hard work and experience. Investigative agents generally have at least 20 year careers and develop this experience and expertise over the years. A prosecutor is with the government too often for only a three to five year period and unfortunately frequently does not develop the required level of expertise necessary to successfully develop cases as complex as the ones I have just described to you.

Our system is one of checks and balances and I believe it is necessary that those checks and balances be maintained. This requires prosecutors to be as sophisticated as the agents investigating the cases. By and large our justice system, at the federal level, is reactive. We respond to the latest high profile case and liberally recognize those involved. You note in every major case, there is a substantial publicity effort not only by the prosecutor but also by the investigators and frequently even by the heads of affected agencies in Washington. Obviously we want to encourage good work and recognize good investigative and prosecutive work. It also indicates, however, that cases the media are most interested in will receive the most "credit". Those cases may or may not represent the most serious threat to society.

The Strike Forces are not as reactive as the United States Attorneys' Offices. Many years went by before the requisite level of expertise was developed. This required learning how the Mafia operated and who within the Mafia was vulnerable. Strike Forces can and do work on long term investigations which can extend over several administrations without a need for immediate "return" on that effort. Generally speaking, the United States Attorneys' Offices do not function in that manner.

In my judgment it would be a grave mistake to pursue the course recommended by Attorney General Thornburgh. The damage to the Strike Force system already has been substantial, perhaps even fatal. You, fortunately, have the opportunity to reverse the Attorney General's decision.

I would be pleased to answer any questions.

Thank you.

Attachments

1. Letter of David B.B. Helfrey to Senator Nunn of April 11, 1989.
2. Eighth Circuit Court Opinion in U.S. v. DeLuna, dated May 10, 1985.
3. Eighth Circuit Court Opinion in U.S. v. Thomas, dated April 11, 1985.
4. Eighth Circuit Court Opinion in U.S. v. Cerone, dated October 8, 1987.

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David B. B. Helfrey

April 11, 1989

Honorable Samuel Nunn
United States Senator
State of Georgia
c/o Permanent Subcommittee on Investigations
Russell Senate Office Building
Room 100
Washington, D.C. 20510

VIA TELECOPY

Attn: John Sopko

Re: Closing of Strike Forces

Honorable Senator Nunn:

I have recently become aware, primarily from news coverage, of Attorney General Thornberg's intention to close the organized crime strike forces by merging them into the various United States Attorneys Offices where the strike forces are located. The media variously attributes this decision to personal pique arising from Mr. Thornberg's days as United States Attorney in Pittsburg and to a policy decision to use limited resources more efficiently.

I believe I am fully familar with the various arguments in favor of and opposed to the closing of the strike forces. I was a member of the Kansas City Strike Force from June 1974 through March 1986. The latter six years I was the Attorney-in-Charge. I have discussed this issue many times with Bob Ulrich, the former United States Attorney for the Western District of Missouri and a prime advocate of abolishing the strike forces, and with numerous others with an interest in this issue. Mr. Ulrich was the Chairman of the Attorney-General's Advisory Committee for several years. In my judgment, abolishment of the strike forces is not a sound policy decision and their merger into the United States Attorneys Offices would constitute abolishment.

The strike force provides focused and concentrated prosecutive and investigative efforts against traditional organized crime groups such as the Mafia. Inevitably, that focus will become diffused over time if the strike forces merged into the United States Attorneys Offices. Communities such as Kansas City, Denver, Omaha and numerous others that are served by a regional strike force will be deprived entirely of an effective law enforcement tool. Because of the inherent political nature of the office of the United-States Attorney and its substantial independence from the U.S. Department of Justice, the United States Attorney generally focuses on the impact he or she can have while in office. Many organized crime investigations do not permit results that rapidly.

For example, the last case I prosecuted in Kansas City, the investigation commenced in April 1978 when the FBI learned of the intended murder of an unidentified victim from confidential sources. That information led to court authorized electronic surveillance between May 1978 and February 1979 in various locations and further extensive electronic surveillance in 1979 in Kansas City, Las Vegas and other locations. The court authorized electronic surveillance and other investigation led to the successful prosecution of the leaders of the Chicago, Milwaukee, Cleveland and Kansas City LCNs and their Las Vegas representatives for exercising unlawful control over and skimming proceeds from the Argent Corporation. Argent Corporation owned and operated four Las Vegas Casinos including the Stardust Hotel and Casino. The investigation also led to the successful prosecution of the leadership of the Kansas City LCN for skimming from the Tropicana Hotel and Casino. This investigation extended over three administrations. President Carter was in office in 1978 when the investigation began and the investigation extended into the two administrations of President Reagan. Most U.S. Attorneys would not devote two to four attorneys largely to a single case over an eight year period. However, I have heard no one suggest that the referenced prosecution and investigation was not warranted.

Nor do I believe there should be competition between the U.S. Attorneys Offices and the Strike Forces. The strike force has a limited focus and has procedures available to it to resolve any such disputes readily. I only recall one such dispute during my tenure as Attorney-in-Charge. That dispute was resolved by Bob Ulrich and myself without any outside intervention.

Unfortunately, I was in Washington, D.C. on business when I learned of your interest in this matter. Please be assured that I am available to give you my views in depth at your convenience.

Thank you for your interest in this matter.

Very truly yours,

David B.B. Helfrey

David B.B. Helfrey

cc: David Margolis

Cochairman NUNN. Thank you, Mr. Helfrey.

I am going to have to depart in just a minute, but I don't want to foreclose a group of distinguished lawyers from one or two comments in rebuttal, if you feel compelled to do so, if you have heard anything that you need to offer some rebuttal to.

Let me go down the row. Anyone that feels that they need to take a minute or two for rebuttal, go ahead.

Mr. MORGENTHAU. Well, I will be very quick. There have been some very good strike force people; there have been some poor strike force people. I think the last speaker made a very good argument for integration when he said that he always got along well with U.S. attorneys' offices. If he got along so well, I don't know why he couldn't have been part of the U.S. attorney's office.

And I think there is a larger philosophical thing. Do you want to extend the power of the central Government into the localities, contrary to the scheme of the legislation, and have all decisions made from Washington, or do you want to let the U.S. attorney make the decision, subject to review, as to what kinds of cases should be investigated?

And don't forget the power of the purse. The Attorney General can decide how much money each U.S. attorney gets, so he has got a lot of power ultimately in deciding what the U.S. attorney is going to do.

Cochairman NUNN. Thank you, Mr. Morgenthau.

Any other points anyone needs to make?

Judge BONNER. I just want to say, Senator Nunn, that there are safeguards under the Attorney General's plan to prevent, assuming that a U.S. attorney would be inclined to do so, the shifting of personnel in these strike force units out of it. So, I mean, there are some guarantees and assurances that that will not happen.

Frankly, I can't conceive——

Cochairman NUNN. Judge, let me ask a question on that one, though.

Judge BONNER. Yes, sir.

Cochairman NUNN. If you can't define the difference between organized crime now, how, when you set it up within the strike force, can an Attorney General in Washington define when resources are being shifted out of it?

Judge BONNER. Well, first of all, you could not move an assistant U.S. attorney or an attorney out of the unit. That is number one. And, number two, you can look at what the unit is doing.

Cochairman NUNN. But you can assign the cases to other people. I mean, you could assign different cases to them and call them organized crime, couldn't you?

Judge BONNER. There will be a case initiation report that will continue that will go back to Washington to the council and to the Organized Crime and Racketeering Section which will describe what the investigation is, so that they will know that it is within some parameters of organized crime; first of all, either, one, that it involves traditional organized crime figures such as the LCN, or that it truly involves an emerging organized crime group such as the Wah Ching, the triads.

Quite frankly, if you want an emerging Mafia, L.A. street gangs will be there in a few years. So they can determine that——

Cochairman **Nunn**. But my point is if you then can determine that definition, why can't you determine it as it exists now?

Judge **Bonner**. Well, the problem is that you have two separate heads here, so that there is bound to be internal disagreement, and there are disagreements that arise. In almost any case that you posit, there are going to be some disagreements that are potentially possible between this head of the strike force and the U.S. attorney.

There are also going to be gaps, too, as I mentioned, which is worrisome; a hiatus in responsibility, too, for areas that are just built into the system that you presently have.

By keeping the strike force units, you will keep the integrity of this program. You are going to make it more effective. You are going to bring it in and you are going to have it controlled by—you know, I have heard a lot of bad things about U.S. attorneys here, but you are going to have it controlled not by somebody out of Washington that doesn't know what is happening in Atlanta, does not know what is happening in Los Angeles, but by a U.S. attorney who is going to be accountable for seeing that there is an effective program and that there are being prosecutions developed and brought against organized crime elements.

Cochairman **Nunn**. Thank you very much, Judge.

Any other comments?

[No response.]

Cochairman **Nunn**. I thank all of you for being here. This has been very helpful to the subcommittee and to the full Judiciary Committee, and we appreciate very much your being here. Obviously, we aren't united on this committee, on either committee. We have differing opinions, as you do, but it is an enormously important subject and it is too important not to devote a great deal of attention to before any radical step is taken, whatever one's view is.

So, thank you all for being here, and if you have any additional comments you would like to submit orally or in writing, we would be delighted to have them. Thank you very much.

We do have several statements that have been submitted which we will enter into the record.

[Whereupon, at 1:00 p.m., the committees were adjourned.]

APPENDIX

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MAJORITY OFFICE

March 27, 1989

The Honorable Sam Nunn
Chairman, Subcommittee on Investigations
SD-303 Dirksen Senate Office Building
Washington, D.C. 20510-1001

Dear Chairman Nunn:

Please find a very disturbing article from the Sunday, March 19, 1989 edition of The New York Times concerning the virtual elimination of the Organized Crime and Racketeering Section of the Criminal Division of the United States Department of Justice.

Very few parts of our federal government work well and achieve the results paid for. In the law enforcement community, where turf battles prevent effective enforcement of the law, the Organized Crime Strike Forces are a brilliant exception.

I was privileged to be a Strike Force attorney and Strike Force Chief from 1972 to 1978. There is no more effective effort in the war against organized crime and corruption than this unit. The record of this Section speaks for itself. It is simply incomprehensible that the Attorney General wants to destroy this magnificent unit.

I respectfully urge you to hold hearings and look into this matter as soon as possible. I would be happy to help.

Thank you for your attention to this matter.

Best regards.

Sincerely,

John M. Dowd

Enclosure

THORNBURGH SEEMS PREPARED TO SHUT ANTI-MAFIA UNITS

A PUSH BY U.S. ATTORNEYS

They Would Undertake Direct Control of Cases Handled by Crime Strike Forces

By MICHAEL WINES

Special to The New York Times

WASHINGTON, March 18 — Attorney General Dick Thornburgh, melding policy and an old personal desire, has tentatively decided to abolish most or all of the Government's 24 regional Organized Crime Strike Forces, set up decades ago to weed Mafia influence from American life, according to Justice Department officials.

Mr. Thornburgh said in a recent interview that he would prefer having local United States attorneys take direct charge of such cases. "The problem" with the strike forces, he said, "is that they are an independent field office of the Department of Justice that competes with the U.S. attorneys."

While the proposal is being pressed by most of the nation's 94 United States attorneys, it has provoked cries of anguish from some of the roughly 130 strike force lawyers, many of whom have spent their careers laboring to send organized crime figures to prison. They argue that the United States attorneys' offices lack the continuity of leadership and the depth of experience to tackle entrenched organized criminal activity.

Studied by Criminal Division

"Any time a bureaucrat wants to cut back the bureaucracy, it's hard to argue against that," one strike force lawyer, who declined to be quoted by name, said of Mr. Thornburgh. "But there isn't any merit to what he wants to do."

Mr. Thornburgh has already given tentative backing to the proposal, which is under study by the head of the Justice Department's criminal division, Edward S. G. Dennis.

Mr. Dennis is known in the department as a strong advocate of abolishing the strike forces, and it is assumed that his report will enhance the likelihood of that course unless there is an outcry in Congress or the press.

A New York Prototype

The United States attorneys, who act as local prosecutors for the Government, have asked that the strike force lawyers be merged into their offices and that the system under which the lawyers report independently to the Justice Department in Washington be eliminated. The proposed arrangement already exists in the Southern District

Continued on Page 26, Column 5

Thornburgh Seems Set To Shut Strike Forces

Continued From Page 1

of New York, where Rudolph W. Giuliani engaged in a string of successful Mafia prosecutions in recent years before resigning as United States attorney several weeks ago.

The plan offers the United States attorneys an opportunity not only to eliminate competing prosecutors and to add high-profile cases to their portfolios, but to enlarge their own staffs of lawyers as well.

And in the interview, Mr. Thornburgh said he would prefer to replace the strike forces with a "cadre of experienced prosecutors" who could be dispatched from Washington to assist the United States attorneys in handling organized crime cases when necessary. Mr. Thornburgh recently set up similarly mobile teams of lawyers to investigate securities fraud and the savings and loan industry.

An assistant to Mr. Thornburgh, David Runkel, said today that the Attorney General would decide "within weeks" what to do about the strike forces.

Ironically, the plan to dismantle the strike forces comes as the units are winding up an extraordinary series of successful prosecutions of high-level Mafia figures. Since 1984, strike forces have won convictions of the leaders or other senior members of Mafia families in Boston, Buffalo, Chicago, Kansas City, Cleveland, Brooklyn and Philadelphia, diminishing the mob's influence in most of those places.

Robert Kennedy's Concept

As originally conceived by Attorney General Robert F. Kennedy in the early 1960's, the strike forces were to focus the resources of the F.B.I., other Federal offices and state and local law enforcement agencies on Mafia organizations that United States attorneys and local prosecutors had been unable to break.

Because organized crime extends across state lines and other legal jurisdictions, the strike forces were run from Washington rather than by the United States attorneys' offices in the cities where the strike forces were based.

The debate over whether to continue the strike forces is not a new one. United States attorneys have argued repeatedly to abolish the forces since the early 1970's. Like Mr. Thornburgh, Attorney General Edwin Meese 3d studied dismantling the units, but he reached no conclusions.

But Mr. Thornburgh said in the interview that Mr. Guiliani's effective prosecution of all five Mafia families in the New York area had shown that strike forces were not essential to breaking up organized crime.

"The argument that U.S. attorneys can't do the job was, I think, effectively laid to rest when we shut down the Organized Crime Strike Force in the Southern District of New York and folded it into the U.S. attorney's office there," he said. Mr. Thornburgh called Mr. Guiliani "the nation's leader in the assault on organized crime."

Others note, however, that the Southern District office is an exception, because, with its sway over nationally important Manhattan cases, it has always drawn the most talented and driven prosecutors. Smaller cities may have equally pressing crime problems but attract less diligent lawyers to attack them, according to several current and former strike force lawyers.

"I think you need special units to tackle the mob," said Marvin Lowie, a former official of the Justice Department's organized crime section in Washington and now a private attorney. "But I think that at this stage, U.S. attorneys have abundant enough talent to get the job done too. What they need is someone to make them do it — and that's the Attorney General."

Mr. Lowie and many others noted that local United States attorneys often leave their posts with each Presidential election and that the interest of their office in prosecuting Mafia figures can vary as a result.

Longtime Uneasiness

Others wonder whether Mr. Thornburgh is merely acting on what he acknowledges is a longtime uneasiness with strike forces dating from his own days as a United States attorney in Pittsburgh, from 1969 to 1974.

Mr. Thornburgh made his mark as a prosecutor and political figure then by jailing middle-level numbers runners in the local Mafia organization. Such cases normally would have been the work of the Pittsburgh strike force, but Mr. Thornburgh "made no bones about the fact that he wanted to be actively involved in what was going on," and personally prosecuted many of them himself, said Kenneth A. Bravo, a Cleveland lawyer who headed the Pittsburgh strike force from 1970 to 1973.

"Dick was a high-profile U.S. attorney, and he got a lot of press and media coverage," Mr. Bravo said. "That was fine. He was also willing to share it."

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April 7, 1989

FEDERAL EXPRESS

Senator Sam Nunn, Chairman
Permanent Sub-Committee on
Investigations
United States Senate
100 Russell Building
Washington, D.C. 20510

Dear Senator Nunn:

As a former Chief of both the Cleveland and Chicago Strike Forces against Organized Crime, I am writing to express my deep concern over the reported inclination of Attorney General Thornburgh to dismantle the Department of Justice Strike Forces against Organized Crime and transfer their functions to individual U.S. Attorneys' offices.

As you are aware, the Strike Force program has had unparalleled success over the past 15 years including incarceration of the ruling hierarchy of the Chicago, Cleveland, Kansas City, Milwaukee, and Los Angeles LCN families; substantial diminishment of the once vice-like control of organized crime over various labor unions; and disruption of major sources of revenue to finance mob activities, such as skimming proceeds from Las Vegas Casinos and diversion of assets and monies of various union pension funds.

This success of the Strike Forces, I believe, is attributed to three characteristics of the existing Department of Justice program. The first of these is the recruitment and development of experienced career prosecutors knowledgeable in the tools and methods of complex criminal investigations. Second is the dedication of specified resources exclusively to the task of investigating and prosecuting organized crime cases in order to provide a continuity of intensive investigative and prosecutive effort. The third factor is centralized supervision and control over the Strike Forces by the Organized

Crime and Racketeering Section of the Criminal Division in order to coordinate, on a national level, the government's effort against organized crime.

The importance of these characteristics is evident in a number of recent convictions. For example, intense, lengthy coordinated investigations, including the extensive use of electronic surveillance, by the Strike Forces in Chicago, Las Vegas, Kansas City, and Cleveland led to the Kansas City skimming case as well as the Chicago conviction of Allen Dorfman and Roy Williams, President of the International Brotherhood of Teamsters on conspiracy and bribery charges. These cases simply would not have occurred except for the long-term commitment of experienced prosecutors working together in a nationally coordinated effort.

Individual United States Attorneys' offices by their very nature have limited geographical jurisdiction. Coordination between offices depends upon the agreement of autonomous presidential appointees on a specified objective and a willingness to divert resources from other pressing local criminal problems to assist another office. Just as each U.S. Attorney's office has individualized priorities, limited resources, especially experienced prosecutors, must be utilized to meet these priorities, some of which may very well appear more pressing than organized crime to particular U.S. Attorneys. Thus, no matter how competent an individual U.S. Attorney's office might be, effective national coordination and long-term commitment to organized crime investigations cannot be assured if the Strike Forces are abolished.

History likewise teaches that merging the functions of the Strike Forces into individual attorneys' offices simply does not work. When Mr. Thornburgh was Assistant Attorney General of the Criminal Division he attempted to dismantle the Strike Force program citing his prior difficulties in dealing with the Strike Force when he was U.S. Attorney in Pittsburgh. Although Mr. Thornburgh was not successful in accomplishing his complete objective, he did succeed in closing the Pittsburgh, St. Louis, Las Vegas and New Orleans Strike Forces. Within a relatively short period, citizens groups and law enforcement officials in Las Vegas and New Orleans demonstrated the need for the Strike Forces in those two cities and each office was reinstated by Mr. Thornburgh's successors.

I am dismayed that a decision of the Attorney General of the United States to dismantle the most effective national crime fighting program of the Department of Justice is not only factually, logically, and historically unsupportable, but also appears to be predicated upon considerations other than an objective evaluation of the success of the program. There is not a doubt in my mind that if the Strike Force program is dismantled as Mr. Thornburgh proposes, organized crime, in a matter of few short years, will once again rise to the prominence it enjoyed as a devastating criminal cartel some twenty years ago.

Senator Sam Nunn, Chairman
April 7, 1989
Page 3

I respectively request that you and the other members of your committee look into the contemplated action by Mr. Thornburgh to determine whether the dismantling of the Strike Forces is in the best interest of the American people. I will be happy to expound upon the conclusions that I have set forth in this letter if you so desire.

Very truly yours,

Douglas P. Roller

DPR/lrb

April 7, 1989

The Honorable Sam Nunn
United States Senate
303 Dirksen Building
Washington, D.C. 20510

Dear Senator Nunn:

Recent newspaper reports indicating that Attorney General Thornburgh is contemplating merging the organized crime strike forces with the the U.S. Attorneys' offices prompt me to write to you today.

I was Chief of the Organized Crime program during 1977 and 1978, before assuming the duties of Inspector General at the General Services Administration. In fact, I was appointed to lead the Organized Crime program by Dick Thornburgh, who then served as the Assistant Attorney General for the Criminal Division. Prior to that, I was a deputy chief of the Organized Crime section and served as a prosecutor on strike forces in Detroit, Cleveland, Miami and New York. I retired from the Department in 1987.

On this issue, Attorney General Thornburgh is clearly wrong. The success of the Organized Crime program, a small program by any standard, speaks for itself and I am sure you are familiar with the many successful prosecutions in the area of mob influence in the labor movement and infiltration of legitimate business. It has taken many years of dedicated, hard work by a group of very talented prosecutors to make that happen. In my view, the Organized Crime section represents the best example of a career prosecution program found in the Federal system today. Many of the attorneys have 10 or more years of specialized experience and, perhaps more importantly, they have the full confidence of the major law enforcement agencies, which is so critical when investigations can take two or three years to complete. With the possible exception of a large U.S. Attorney's office like the Southern District of New York, that experience level is not easily found. More importantly, it is essential to maintain a program that is not subject to the differing priorities set by 94 U.S. Attorneys. At the same time, it is not quite correct to suggest that the strike forces are independent. Guidelines controlling the relationship between U.S. Attorneys and Strike Force attorneys are very detailed and always have recognized the U.S. Attorney as the chief

Federal law enforcement officer in the district, as it should be.

On a final note, during my tour of duty as Chief of the Narcotics Section in 1976 about 40 prosecutor positions became available to work on major narcotics conspiracy cases. After some debate about the allocation of these positions and their supervision, they were set up as units in selected U.S. Attorneys offices. I remember quite clearly that the attorneys in one of those offices were quickly blended into the regular workload any U.S. Attorney has to deal with. I complained to then Assistant Attorney General Thornburgh who told me in so many words that each U.S. Attorney has responsibility to run his office and we would not interfere. If the strike forces are merged, the same thing may happen. Indeed I believe the potential for this to happen is high, resulting in a significant dilution of this effort.

Nothing is broken, nothing needs to be fixed. The strike force program is a small, efficient, high impact program seldom found in the government and I will forever be proud to have had the privilege to contribute to it.

If I can be of any assistance, please get in touch with me.

Respectfully yours,

Kurt W. Muellenberg.

FOX, ROTHSCHILD, O'BRIEN & FRANKEL

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April 7, 1989

VIA TELECOPIER

Honorable Sam Nunn
Senate Permanent Subcommittee on Investigations
Russell Senate Office Building, Room 100
Wawhington, DC 20510

Dear Senator Nunn:

This is in regard to the Permanent Subcommittee on Investigations' hearing on Attorney General Thornburgh's proposal to merge the Organized Crime Strike Forces into the various U.S. Attorneys' offices.

As you may know, this merger has been proposed numerous times since 1972 by different U.S. Attorney groups and rejected each time.

I have served as the United States Attorney for the Eastern District of Pennsylvania (Philadelphia) for five years as well as the Attorney-in-Charge of the Chicago and Philadelphia Strike Forces. I am familiar with the arguments on both sides of this question. While in the Department of Justice, I participated in management studies each time the merger was proposed.

The proposal, although always made by U.S. Attorneys, is really a symptom of a larger management problem; that is the ability of the Department of Justice to coordinate complex investigations of interstate criminal organizations.

The U.S. Attorney is appointed by the President after being proposed by the local U.S. Senator. Only the President can fire the U.S. Attorney. The United States Attorney is all powerful in his or her district - probably more powerful than the Attorney General. Criminal syndicates, however, do not respect judicial district borders. They operate across state lines; indeed across the country.

The coordination of an investigation of such organizations cannot be accomplished by one U.S. Attorney. He or she does not have any authority to coordinate an investigation or indict a case in the district of another, equally powerful presidential appointee. The battles of U.S. Attorneys over major multi-district cases are very common.

There is an absolute need to coordinate such investigations by a central authority to ensure that the best possible cases are brought in the best district. Attorney General Robert Kennedy, who had no patience for bureaucracy, established the Strike Forces in 1962 with this purpose in mind.

A good example is the major case, code named "Pendorff" which was brought by the Strike Force in Kansas City in 1984. Indicted and convicted were organized crime leaders from Chicago, Milwaukee, Cleveland, Las Vegas and Kansas City. Investigations were conducted in all those cities. Wire taps were installed in Chicago, Missouri, Kansas and Milwaukee. The investigation was coordinated by the Strike Forces in Chicago, Kanssas City, Las Vegas and Cleveland. It was truly a coordinated, nationwide effort. Such an investigation and the resulting one trial could not have been coordinated and brought by one or several U.S. Attorneys.

If the Strike Forces were not fulfilling a need in the Department of Justice structure, they would have withered and died long ago. But instead, they have been very successful, especially in the past five years. What reason now to get rid of them except a turf fight that really masks a basic management problem.

It is said that the U.S. Attorney's office in the Southern District of New York is very successful with its own in-house Strike Force. The Southern District, like the city of New York, is unique and cannot be used as a comparison. Most of the organized crime cases brought in the Southern District involve organized crime activity which took place within the city of New York. Investigations are generally centered in the district. There are far more Assistant U.S. Attorneys in New York than in any other office. That office can delegate numerous attorneys to work only on one case for years at a time. Such conditions do not exist in other U.S. Attorneys' offices. However, it should be noted that the Southern District needed information gathered by Strike Forces to bring the recent civil case against the Teamsters Union.

If the Strike Forces are merged into the U.S. Attorneys' offices, they will exist in name only after two years. A U.S. Attorney always needs experienced attorneys to work on priority (hot) cases such as local political corruption. If the U.S. Attorney is given the power to designate who works in the Strike Forces, it is only a matter of time until the best and most experienced attorneys will be working on the "hot" cases and younger, less experienced attorneys will be assigned to develop organized crime cases that require years of work and may be brought in another district.

It has been my experience as U.S. Attorney that any task force that is situated in the U.S. Attorneys' office under the U.S. Attorney's control eventually is canabalized for the best personnel for use on local matters.

The Strike Forces are not without their faults, but these are management problmes. Strike Forces should not be fighting with the U.S. Attorney for existing cases. Strike Forces should be concentrating on investigations of corruption of major economic forces in the United States. These cases are generally beyond the physical capacity of the individual U.S. Attorney. For example, there are entire industries in the United States that are under the domination of organized crime. There are narcotics cartels operating out of Mexixo and South America that have operational budgets larger than Fortune 500 companies. The Strike Forces need to concentrate on these type of cases. The Strike Forces need long-range planning goals. They need more coordination of multi-investigative agency efforts.

In summary, the Department of Justice is a national organization. Like any national company, it must delegate duties for local national and international tasks to meet the problems of the marketplace. It cannot abandon this role to a local turf fight.

Sincerely,

Peter F. Vaira

PETER F. VAIRA

PFV/gml

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April 10, 1989

Honorable Sam Nunn, Chairman
Permanent Subcommittee on Investigations
U.S. Senate
Washington, D.C. 20510

Re: Thornberg Proposal to Disband
Organized Crime Strike Forces

Dear Senator Nunn:

By way of introduction, I am a former strike force chief of the New Orleans Strike Force of the Criminal Division of the U.S. Department of Justice. I was assigned to the strike force program for ten years and served as chief in New Orleans for approximately four years. Prior to that, I was assigned to the Tampa field office of the Miami Strike Force where I prosecuted numerous cases, including a major arson-for-hire case with your chief counsel and my good friend, Ms. Eleanor Hill.

I am writing to you to express my dismay to learn, not surprisingly, that Attorney General Thornberg seems intent on disbanding the strike forces and reintegrating them as a part of the local U.S. attorney structure.

If the Attorney General succeeds in this plan, he will effectively bring to an end the Justice Department's outstanding campaign against traditional organized crime in America. The American people will suffer greatly in the future because of the lack of a centralized effort against organized crime directed by Justice Department superiors in Washington.

I have read several comments in the national media attributed to the Attorney General claiming that his new plan will enhance efforts against organized crime. Such claims are disingenuous to say the least and are simply comments to gloss over the Attorney General's well known personal antipathy towards the strike forces which he has harbored ever since he was U.S. Attorney in Pittsburgh in the 1970's.

If one examines the record of the Organized Crime Strike Forces since inception, it becomes clear that of all the programs that the department's criminal division has implemented, this program has been the most successful. Under the present program, strike force attorneys have concentrated their efforts on traditional organized crime figures without being distracted by the routine cases that assistant U.S. attorneys are required to handle day in and day out.

Furthermore, the strike forces have developed tremendous expertise in utilizing various investigative tools, including electronic surveillance, which enable them to be of great assistance to the F.B.I. and other federal investigative agencies. Equally important is the fact that the strike force efforts are directed from Washington by supervisors who have direct, ongoing knowledge of the day-to-day activities of organized crime figures throughout the country. Because of Mr. Thornberg's decentralization plan, these concentrated efforts will be lost in the future as efforts against organized crime will reassigned to the numerous U.S. attorneys, each of whom has investigative jurisdiction only in his particular district.

Please do everything within your subcommittee's jurisdiction to review this entire matter. Unless knowledgeable members of Congress review the Attorney General's plan thoroughly and expose it for what it is, I fear that continued success against organized crime will be lost and the wrong message will be sent to this dangerous element.

With great respect, I am,

Yours sincerely,

L. Eades Hogue

L. Eades Hogue

LEH/lrc

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April 10, 1989

The Honorable Sam Nunn
United States Senate
Permanent Subcommittee on
 Investigations
Russell Building
Room 100
Washington, DC 20510

Dear Senator Nunn:

I am writing to express my deep concern regarding recent reports that the Attorney General of the United States intends to close the Organized Crime Strike Forces and merge them into the United States Attorneys' offices. For the more than thirteen years I spent in the Department of Justice, it was clear that the success of the Department's organized crime program was largely dependent upon consistent commitments of time and resources by the strike forces. Most United States Attorney's Offices could not do that on a regular basis.

In 1970, I joined the Justice Department's Organized Crime and Racketeering Section and, in 1971, was assigned to the Providence Field Office of the Boston Organized Crime Strike Force where I spent considerable time investigating and prosecuting traditional organized crime and labor racketeering activities. In 1975, I was assigned to the Miami Organized Crime Strike force and served as the attorney-in-charge of that office until January 1984 when I left the government for private practice. Thus, except for a six month period in 1979 and 1980 when I served as Deputy Chief Counsel of the Senate Permanent Subcommittee on Investigations, I spent over thirteen years as an organized crime strike force attorney, trying cases in Rhode Island, Massachusetts and Florida and investigating organized criminal activities in other cites.

These were rewarding and productive years of service. In addition to performance awards and letters of commendation, I received the Attorney General's Distinguished Service Award for initiating and developing the National Waterfront Corruption Investigation which resulted in convictions of more than one hundred International Longshoremens Association officials and corporate executives along the East and Gulf coasts. That investigation began in Miami in 1975 shortly after I arrived there, and the major trial in Miami (the "Barone trial") was not completed until September 1979. We were able to expand the investigation providing our counterparts in the Southern District of New York with their first wiretaps and undercover introduction into corruption in the Port of New York. Their investigation culminated in the conviction of Anthony Scotto and other New York I.L.A. officials.

Without the organized crime strike force program, it is unlikely that the investigation would have extended as far as it did or have been as successful. At that time, the U.S. Attorneys Office for the Southern District of Florida simply could not allow one attorney (let alone the additional attorneys who eventually joined the investigation and prosecution) work virtually full-time on this investigation. The U.S. Attorney had consuming responsibilities with narcotics and terrorist matters at that time, along with his other enforcement areas. In fact, the strain on his resources was so severe that soon after the Barone trial, the Department of Justice began sending attorneys from other offices to south Florida to help deal with an overflow of cases. The U.S. Attorney for the Southern District of Florida could not have sustained the manpower commitment needed to pursue the waterfront investigation and at the same time handle narcotics and other reactive prosecutions.

The organized crime strike forces must retain separate identity. (However, although the two offices may be separate, they should not operate independently of one another. The need for coordination and, of course cooperation, between both offices is essential to the mission of the Department of Justice.) Organized crime investigations are difficult, lengthy and require a great deal of patience in the face of slow results. Very simply, if merged into the U.S. Attorneys offices, the traditional organized crime program would wither.

A U.S. Attorney would have difficulty committing several attorneys to a labor racketeering investigation when he or she is overwhelmed by narcotics, money laundering defense contracting, program fraud, securities fraud, and public corruption investigations and prosecutions not involving traditional organized crime.

The strike forces have been able to coordinate the participation of not only federal and state law enforcement agencies within their own geographic areas, but also several strike forces in extended investigations. I have the highest respect for the U.S. Attorneys; however, I think it is unrealistic to expect that on a consistent basis the priorities of one U. S. Attorney will be coincide with those of another U.S. Attorney. Nor can one expect that the successes of a unique U.S. Attorneys Office in organized crime prosecutions can be duplicated in any of the other district where strike forces already successfully operate.

The Organized Crime Strike Forces have established a superb tradition of performance, professionalism and continuity. Organized crime prosecutions have been successful because the program has been consistent and persistent in its effort. The U.S. Attorneys must be able to respond quickly to changing law enforcement priorities and to commit substantial resources to those changing priorities. Most U.S. Attorneys' Offices can not do both. If the offices are joined, there can be little question that it will be the traditional organized crime and labor racketeering program which will suffer.

If the fight against traditional organized crime and labor racketeering is still high on the Attorney General's agenda, the Organized Crime Strike Forces must remain a separate weapon in that fight.

Sincerely,

S. Michael Levin

DENIS DILLON
DISTRICT ATTORNEY

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April 11, 1989

Senator Sam Nunn
c/o The Permanent Subcommittee
on Investigations
Russell Senate Office Building
Room 100
Washington, D.C. 20510

Dear Senator Nunn:

I understand that the Senate Permanent Subcommittee on Investigations will be considering the Attorney General's recent proposal that the Department of Justice Organized Crime Strike Force be disbanded. As former Chief of the Organized Crime Strike Force in the Eastern District of New York (1970 - 1974) and District Attorney of Nassau County, New York since 1975, I would like to be on record as strongly advising against implementation of that proposal.

In my opinion, the Strike Forces provide a more consistent and coherent approach to combatting organized crime. Their supervising attorneys in the field and in Washington are a more permanent cadre of professional prosecutors than can be found in most United States Attorney's offices. Moreover, the strategic planning emanating from the Department of Justice provides a balanced, coordinated nationwide approach which cannot be duplicated by the more independent United States Attorneys.

Sincerely,

Denis Dillon

DENIS DILLON
District Attorney

bm

cc: Edward McDonald, Esq.
Attorney in Charge
Organized Crime Strike Force
Eastern District of New York

DENIS DILLON
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April 11, 1989

Senator Sam Nunn
The Permanent Subcommittee on Investigations
Russell sEnate Office Building
Room 100
Washington, D.C. 20510

Dear Senator Nunn:

Disbanding the Organized Crime Strike Forces of the Justice Department will not be in the best interests of law enforcement in this country. The Strike Forces have produced a number of advantages not often available in the average United States Attorney's office. Among these is the ability of the Strike Forces to recruit career-oriented prosecutors whose tenure bridges the gap left by the change of United States Attorneys. This tends to produce a prosecutor respected by federal agents who see him as a fellow law enforcement professional with common interests and goals.

Such prosecutors also become the institutional memories and forces of continuity so necessary in the campaign against organized crime families whose basic structure readily provides such benefits to them. Moreover, Strike Force attorneys frequently are assigned to cities other than the ones in which they were raised, thus lessening the likelihood of conflicts of interests.

Very truly yours,

DENIS DILLON
District Attorney

LAURENCE LEFF
Chief Assistant District Attonrey

LL/dm

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April 11, 1989

The Honorable Sam Nunn,
United States Senator
c/o Senate Permanent Sub-Committee
  on Investigations
Russell Building - Room 100
Washington, DC 20510

Dear Senator Nunn:

I am a former Federal prosecutor with the United States Department of Justice. For 10 years, I was assigned to the Organized Crime and Racketeering Section where I served as a Strike Force attorney in Boston, Philadelphia and New Orleans. I ended my work with the Justice Department in 1988 as the Attorney-in-Charge of the Providence Field Office of the Boston Strike Force.

The Justice Department's proposed merger of the Strike Forces with the United States Attorneys' Offices is a poor idea that comes at the wrong time in the war against organized crime. No one can quarrel with the unparalleled success of the Strike Force Program. Virtually the entire hierarchy of the Mafia has been eliminated by this massive effort to eradicate organized crime. Disbanding the program now would send the wrong message to the new leaders and their followers while the Mafia, as a whole, is still suffering from a nearly mortal blow.

The hard fought victories are attributable for the most part to the seasoned professional prosecutors who labored throughout the 1970's developing informants, conducting electronic surveillance and assembling vast amounts of evidence. Using new laws such as the RICO statute that Congress enacted to fight organized crime consistently throughout the United States, the Strike Forces have disrupted the vast network of the LCN. Eliminating the Strike Forces as an entity at this late stage would signal to the underworld that the Federal government is retreating on a path that leads back to the bygone days when organized crime was barely acknowledged and prosecutions were rare and often unsuccessful.

The BRILAB case demonstrates the compelling need to continue to use the Strike Forces as the chief weapon against organized crime. In the mid 1970's when the Justice Department closed down the New Orleans Strike Force, for most of the same reasons it now seeks merger, it appeared to many people that the government had given up any hope of prosecuting Carlos Marcello, the legendary boss of the New Orleans LCN Family. Attorney General Griffen Bell re-opened the office in the late 1970's. A newly fortified Strike Force coordinated a major undercover investigation in 4 states and the District of Columbia which produced the conviction of Carlos Marcello in 1981 for violating the RICO statute. He is still serving a 17 year prison sentence. As a young prosecutor, I was fortunate to have prosecuted the case with L. Eades Hogue, the Strike Force Chief who led the investigation and the United States Attorney John Volz. That case and others in New Orleans that followed would never have happened if the Strike Force's doors remained closed.

The reason that Strike Forces, coordinated by the Organized Crime and Racketeering Section headquarters in Washington, are uniquely qualified to attack organized crime is that unlike United States Attorneys' offices, Strike Forces have multi-state jurisdiction. This is particularly important where organized crime families have become entrenched in more than one state. For example, in the case against Francesco J. Scibelli, a caporegime of the Genovese Crime Family, I was able to conduct the investigation of Mr. Scibelli and his cohorts in Western Massachusetts, Northern Connecticut, Upstate New York and Nevada. The defendants were located in Springfield, Massachusetts yet had a hidden ownership interest in a junket business in Las Vegas. The investigation and prosecution took four years to complete and resulted in RICO convictions of the defendants in Federal Court in Springfield in October, 1987. I am not sure that the United States Attorney's Offices in Connecticut, Massachusetts, New York and Nevada would have been able to commit the resources let alone coordinate that type of project over such a lengthy period of time.

The only reason to merge the Strike Forces and the United States Attorneys' offices would be to eliminate "competition" amongst those entities. But I don't believe that such competition exists and even if it does, it is not harmful. As Attorney-in-Charge of the Providence Field Office I worked on a daily basis with the United States Attorney for the District of Rhode Island, Lincoln C. Almond. From the summer of 1985 through May of 1988 we jointly investigated a money

Senator Sam Nunn
April 11, 1989
Page 3

laundering operation that was being conducted by the Branch Office of the E.F. Hutton & Company, Inc. in Providence. Mr. Almond and I interviewed scores of witnesses, subpoenaed thousands of documents, and conducted a thorough grand jury investigation which lasted approximately three years. By the summer of 1988, Hutton and a broker pleaded guilty to money laundering offenses; the company was fined $1,000,000.00 and the broker was sent to jail. The Hutton case in Rhode Island presents an example of how well the Strike Force can work in conjunction with the United States Attorney's office.

In Hutton the mission of the United States Attorney's Office in Providence and the Strike Force was the same. But that is not always the case. Each United States Attorney has a broad mandate to prosecute all Federal crimes within his or her district. The narcotics epidemic is such a great problem these days that an entire staff of a United States Attorney's office could be used solely to prosecute Federal drug cases. If merger occurs, there is the distinct possibility that organized crime will benefit because no one will be available to spend many months, more likely years, coordinating the investigation and conducting the prosecution of the LCN.

I have known many Strike Force attorneys during my tenure as a Justice Department attorney. All of them were dedicated professionals who recognized the importance of eradicating organized crime on a nationwide basis. Many, like myself, were willing to move to various cities in order to prosecute and convict criminals who posed such a significant threat to our society. Many had more experience than I and still remain at their duty stations prosecuting the mob. If the Congress permits a merger to occur, it is my belief that most of these professionals with their vast reservoir of knowledge will retire rather than have their prosecutorial activities limited by a local United States Attorney. For these reasons I oppose merger.

Very truly yours,

John Voorhees

John Voorhees

JV/dpc
2063j

LIAM S. COONAN
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April 11, 1989

The Honorable Sam Nunn, Chairman
Senate Permanent Subcommittee on Investigation
Russell Senate Office Building
Room 100
Washington, D.C. 20510

Dear Senator Nunn:

I would like to voice my objections to the announced intention of the United States Attorney General, Richard Thornburgh, to terminate the activities of the Organized Crime Strike Forces by absorbing the Strike Force operations into those of the United States Attorney's offices.

I am Vice President and Assistant General Counsel of a Fortune 20 Corporation with a legal staff of over 100 attorneys.. Prior to joining the legal staff of this corporation in 1976, I served for eight years with the Department of Justice, the first two years with the Antitrust Division and the balance with the Organized Crime Division -- the last two years as Chief of the St. Louis Strike Force. As a consequence of these experiences, I understand the operations of both the Strike Force and the United States Attorney's offices, and I have enough distance from them in time and experience to be objective.

I believe that a decision to incorporate the operations of the Strike Forces into the United States Attorney's offices would be fatally flawed. This does not suggest for a moment that the United States Attorneys are less than committed, honorable and dedicated men and women. On the contrary, it is because of that commitment and dedication that the public is best served by having Strike Forces operating in partnership with, rather than as a part of the United States Attorney's offices.

Though the two organizations share the same goal of law enforcement, each has, by necessity, a different set of priorities. The United States Attorney in each district carries the burden of assuring the public that its well being is protected. It is the United States Attorney that is called upon to address immediately those day-to-day matters that concern the public -- matters which are, to a large extent, dictated by the news media: today -- narcotics; tomorrow -- pornography; the day after -- security violations; and something new the day after that.

In each such instance, the United States Attorney must reach into the pool of available prosecutorial talent and draw from that pool the best attorneys he has to meet that day's challenges. As yesterday's problems recede from public concern, the resources and attention addressed to those problems are redirected. Even in a perfect world, tomorrow's problems, not yet over the horizon, cannot as a practical matter receive the attention they warrant.

If the United States Attorney had eight, twelve or sixteen years in which all of those matters could be addressed, that would be one thing. He has, however, normally not more than four years. In that time, he must be able to meet his goals of maintaining public confidence in law enforcement and leaving with his reputation as a public servant and whatever political aspirations he may have intact.

In this context, no United States Attorney's office can be asked to concentrate on high profile crimes that impact visually and emotionally on the public and, at the same time, devote talented and experienced attorneys to the long, drawn out, and often times tedious war against Organized Crime, whose members work diligently to stay off the front page and off the 6:00 o'clock news.

The circumstances that brought the Strike Forces into the war against Organized Crime have not changed materially since the 1960's. United States Attorneys are no less dedicated then than now; their staffs no less prepared to address matters of public concern than today; and Organized Crime was just as interested in remaining out of the public view then as now. The change that has occurred has come because the Strike Forces, through their long-term efforts, have effectively forced Organized Crime from its haven of obscurity to its present high visibility, where its members are now household names, stripped of glamour and recognized for what they are -- a very serious danger to the community.

This success has, unfortunately yet predictably, incurred political "fall out." From my personal experience, the Strike Forces could labor as long as necessary without the United States Attorneys being concerned, as long as the fruits of that labor did not engender publicity. For a time the Strike Forces enjoyed the same obscurity that Organized Crime sought. As Organized Crime was levered into the public eye, so the Strike Forces also became the focus of public and media attention. It would be particularly tragic if the Strike Forces' successes in bringing Organized Crime into the public limelight now became the seeds of their destruction.

No one would seriously suggest that the antitrust field offices should be disbanded and the attorneys assigned to the United States Attorneys offices to continue or "improve" the prosecution of antitrust violations. Likewise, the effectiveness of the Strike Force attorneys will not be improved by incorporating them into the United States Attorney's offices. The necessary priorities of the United States Attorneys would require them to assign his resources to narcotics cases or other matters more clearly associated in the public mind with criminal harm than mergers or racketeering, rather than the long-term problems the current Strike Force addresses. The Strike Forces must be viewed as a part of the Department of Justice's overall effort to prosecute and contain crime.

It takes a minimum of two or three years to understand the underlying fabric of local Organized Crime, even longer to appreciate its national and international impact. The time necessary to work up through the hierarchy of any single group can be even longer. If Mr. Thornburgh is successful in disbanding the Strike Forces, the outcome will be inevitable and irreversible. The institutional memory embodied in the Strike Forces' attorneys will exist only as long as they remain part of a discrete group -- on their disbandment, slowly but certainly it will be lost -- the attorneys dispersed, in most instances, to private practice. Organized Crime will, once again, fade into a background where pornography, securities fraud and terrorism, with their more immediate perceived impact, will again be the focus of public attention -- 1960 revisited.

When the Strike Forces were organized, their relationships with the U. S. Attorney's Offices were, though not perfect, certainly reflective of no more than the normal tensions that exist between cooperating agencies. During Mr. Thornburgh's tenure as Assistant Attorney General of the Criminal Division, his apparent discomfort with the existence of the Strike Forces led to a situation in which there was a great deal of discord between the offices and agencies involved. In the intervening years, I understand that the relationship has returned to a more normal footing. However, without a strong message from Congress and Mr. Thornburgh, I fear the situation will return to the inefficiency and unproductiveness which have been the hallmark of this controversy.

Senator, if the decision is made to retain the Strike Forces in their present status as the valuable assets they are, it is imperative that a supportive environment be established to ensure that past bitterness is not continued into the present and future. Such squabbles will only undermine the vital contributions of each of the agencies to their shared goal of effective law enforcement.

Congress must send a message to the Department of Justice that the war on Organized Crime is important enough to warrant our best concerted efforts. It is extremely important to maintain the pressure on Organized Crime, to keep it on the defensive, to match its lawyers with an ongoing team of experienced Strike Force attorneys. To disband the Organized Crime Strike Forces would clearly not serve the public interest.

Yours truly,

Liam S. Coonan.

Liam S. Coonan

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April 11, 1989

Senator Sam Nunn
c/o Senate Permanent Subcommittee
on Investigations
Russell Senate Office Building
Washington D.C. 20510

Dear Senator Nunn:

Having been advised of your current hearings concerning the Justice Department Strike Forces, I am writing you to support the need to maintain and improve Organized Crime Strike Forces.

I began my career in the Justice Department in the Organized Crime and Racketeering Section in April of 1972. I was assigned to the Newark, New Jersey Strike Force from August of 1972 until August of 1976. I was then transferred to the Boston Strike Force where I prosecuted cases in Massachussetts and Rhode Island until December of 1979, when I became the attorney in charge of the Connecticut Field Office until July of 1982. In 1982 I was asked by the then newly appointed United States Attorney for the Southern District of Florida, Stanley Marcus, to become his Chief of Narcotics. I also served as Chief of the Criminal Division and Chief Assistant until I left for private practice in January of this year. As this quick resume may indicate, I have experienced working in both a United States Attorney's Office and Strike Forces. My experience has made me a staunch supporter of the Strike Forces for the following reasons.

First, a United States Attorney's Office is most often confronted with major reactive cases and is often constrained by the prosecutive demands of the District in which it is located. For instance, the United States Attorney's Offices in certain major Districts cannot ignore substantial drug traficking activities. Therefore, even ~~if the~~ Unites States Attorney wants to pay attention to traditional organized crime and labor racketeering cases, he may have to use all available resources to prosecute emergency drug cases. Without a Strike Force, traditional organized crime and labor racketeering may be given only slight attention.

Second, major organized crime investigations take years to develope. I began investigating teamster corruption in Newark, New Jersey in 1974, and offshoots of those investigations are still being prosecuted. Important information concerning witnesses and evidence are centralized in the Organized Crime Section Headquarters in Washington and professional prosecutors, who are drawn to the Strike Forces, are still in the Organized Crime Section, thus preserving a long-term institutional memory necessary to keep complex investigations alive. For instance, Bob Stewart, Chief of the Strike Force in Newark, is a walking encyclopedia as to teamster corruption. Jeremiah O'Sullivan, Chief of the Strike Force in Boston, worked for ten (10) years to prosecute and convict, among others, Genaro Angiullo, head of the organized crime family in Boston. O'Sullivan's investigation and prosecution of the Angiullo crime family spanned at least three different United States Attorneys' terms in office.

Third, Strike Force prosecutors gain an expertise in areas such as electronic surveillance, RICO, long term grand jury investigations, and labor racketeering which make those Strike Force attorneys an invaluable source of professional prosecutors available to the Attorney General for important assignments in the Department of Justice. When the Department of Justice needed an experienced and trustworthy prosecutor to investigate allegations of D.E.A. corruption in the mid-1970's, the Attorney General was able to turn to one of the Department of Justice's most trusted attorneys, Michael DeFeo, of the Organized Crime Section to head that investigation. When the Southern District of Florida was floundering in 1982, the Department of Justice was able to turn to the then Chief of the Detroit Strike Force, Stanley Marcus, to come to Florida and bring with him several other experienced Strike Force attorneys from around the country to attack the crime problem in Miami. When a recent problem arose in the United States Attorney's Office in Boston, The Attorney General was able to turn to Jeremiah O'Sullivan, Chief of the Strike Force, to take over as acting United States Attorney until the President appoints a new United States Attorney. The Strike Forces should be a reliable source of professional prosecutors within the Department of Justice who are unaffected by politics or outside influence and are available to assist the Attorney General whenever necessary.

Finally, the Strike Forces have a definite prosecutive mission. They should not be operating outside of that mission without the specific request of the Attorney General. They should be a nationwide resource of knowledge about organized crime and labor racketeers. They should be available, as Paul Coffee of the Organized Crime Section is, to provide expertise in such areas as RICO and electronic surveillance. The Organized Crime Strike Forces should be a reliable source of experienced and professional prosecutors who understand the innerworkings of the Department of Justice. Indeed, some United States Attorneys who have prosecutorial experience, such as Rudy Guiliani in the Southern District of New York, may be able to develope a successful organized crime program during their term in office in a United States Attorney's Office. However, United States Attorneys change with the political fortunes of their mentors and the long term commitment to fight organized crime should not be limited by the term and ability of a political appointee nor should it vary from District to District around the United States depending upon the interests of the particular United States Attorney. The information needed to combat organized crime should be centralized and the staff employed to do this job should have long term commitments in order to complete their tasks. The Strike Forces are therefore essential to the war on organized crime and to the professionalism of the Department of Justice.

Sincerely,

Richard D Gregorie

Richard D. Gregorie

RDG:mym

GUILFOIL PETZALL & SHOEMAKE
ATTORNEYS AT LAW

100 North Broadway
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DAVID B. B. HELFREY

April 11, 1989

Honorable Samuel Nunn
United States Senator
State of Georgia
c/o Permanent Subcommittee on Investigations
Russell Senate Office Building
Room 100
Washington, D.C. 20510

VIA TELECOPY

Attn: John Sopko

Re: Closing of Strike Forces

Honorable Senator Nunn:

I have recently become aware, primarily from news coverage, of Attorney General Thornberg's intention to close the organized crime strike forces by merging them into the various United States Attorneys Offices where the strike forces are located. The media variously attributes this decision to personal pique arising from Mr. Thornberg's days as United States Attorney in Pittsburg and to a policy decision to use limited resources more efficiently.

I believe I am fully familar with the various arguments in favor of and opposed to the closing of the strike forces. I was a member of the Kansas City Strike Force from June 1974 through March 1986. The latter six years I was the Attorney-in-Charge. I have discussed this issue many times with Bob Ulrich, the former United States Attorney for the Western District of Missouri and a prime advocate of abolishing the strike forces, and with numerous others with an interest in this issue. Mr. Ulrich was the Chairman of the Attorney-General's Advisory Committee for several years. In my judgment, abolishment of the strike forces is not a sound policy decision and their merger into the United States Attorneys Offices would constitute abolishment.

The strike force provides focused and concentrated prosecutive and investigative efforts against traditional organized crime groups such as the Mafia. Inevitably, that focus will become diffused over time if the strike forces merged into the United States Attorneys Offices. Communities such as Kansas City, Denver, Omaha and numerous others that are served by a regional strike force will be deprived entirely of an effective law enforcement tool. Because of the inherent political nature of the office of the United States Attorney and its substantial independence from the U.S. Department of Justice, the United States Attorney generally focuses on the impact he or she can have while in office. Many organized crime investigations do not permit results that rapidly.

For example, the last case I prosecuted in Kansas City, the investigation commenced in April 1978 when the FBI learned of the intended murder of an unidentified victim from confidential sources. That information led to court authorized electronic surveillance between May 1978 and February 1979 in various locations and further extensive electronic surveillance in 1979 in Kansas City, Las Vegas and other locations. The court authorized electronic surveillance and other investigation led to the successful prosecution of the leaders of the Chicago, Milwaukee, Cleveland and Kansas City LCNs and their Las Vegas representatives for exercising unlawful control over and skimming proceeds from the Argent Corporation. Argent Corporation owned and operated four Las Vegas Casinos including the Stardust Hotel and Casino. The investigation also led to the successful prosecution of the leadership of the Kansas City LCN for skimming from the Tropicana Hotel and Casino. This investigation extended over three administrations. President Carter was in office in 1978 when the investigation began and the investigation extended into the two administrations of President Reagan. Most U.S. Attorneys would not devote two to four attorneys largely to a single case over an eight year period. However, I have heard no one suggest that the referenced prosecution and investigation was not warranted.

Nor do I believe there should be competition between the U.S. Attorneys Offices and the Strike Forces. The strike force has a limited focus and has procedures available to it to resolve any such disputes readily. I only recall one such dispute during my tenure as Attorney-in-Charge. That dispute was resolved by Bob Ulrich and myself without any outside intervention.

Unfortunately, I was in Washington, D.C. on business when I learned of your interest in this matter. Please be assured that I am available to give you my views in depth at your convenience.

Thank you for your interest in this matter.

Very truly yours,

David B.B. Helfrey

David B.B. Helfrey

cc: David Margolis

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1719 N. Broad Street
Philadelphia, Pennsylvania 19122

April 12, 1989

Honorable Sam Nunn
Chairman
Senate Permanent Subcommitte on Investigations
Washington, DC 20510-6250

RE: U. S. Department of Justice
Organized Crime Strike Forces

Dear Senator Nunn:

I was pleased to learn of your recent communication with Attorney General Thornburgh concerning the proposed elimination of the Department of Justice's Organized Crime Strike Forces. My hope is that your expression of concern regarding the implications of such a step, coupled with similar interest on the part of Senators Specter, Thurmond and Kennedy will result in a thorough examination of the proposal.

As one who has spent more than twenty-five years professionally involved with the problem of Organized Crime in investigations and prosecution, in teaching about it to investigative agents, prosecutors and law students, in research and writing about it and as a member of President's Reagan's Organized Crime Commission I regard the proposal to dismantle the existing Organized Crime Strike Forces as seriously flawed.

As hearings before the Permanent Subcommitte in April 1988 reflected, in recent years the Strike Forces have acheived significant successes. Their prosecutions have inflicted irreparable damage to important elements of La Cosa Nostra (LCN) in Boston, Philadelphia, Kansas City and in other areas.

Successful LCN Prosecutions are usually a function of effective, long-term interaction between investigative agents and seasoned, investigating-prosecutors, rather than the consequence of some unforeseen, fortuitous event. Such attorneys are unique among prosecutors, even among those with substantial trial experience. The skills of investigating-prosecutors are not developed primarily in the courtroom. Rather, they are achieved only after lengthy and intense involvement with agents over a period of time sufficient to engender mutual respect and understanding. Put simply, strike Force cases do not drop into prosecutors' laps. They are built over long periods of time with excruciating attention to detail and extraordinary patience by persons dedicated to that kind of effort. It is the collective benefit of the experience of such people in the individual Strike Forces that makes each in total greater than the sum of its parts.

As the President's Organized Crime Commission indicated, we have been late, in recognizing other criminal groups which give evidence of evolving into organizations as potentially intractable as the LCN was for so many years. In the face of that threat, destruction of the very governmental units now able to contend effectively with the ultimate model of Organized Crime seems tragically shortsighted.

In addition to the loss of a cadre of people very difficult to replace, the abolition of the Strike forces and the transfer of their functional responsibilites to cognizant U. S. Attorneys will have other negative effects.

Strike Forces represent the focus of dedicated resources upon an important but narrow set of problems and persons. Transfer of functional responsibilites will inevitably involve resource competition between competing problem areas. The national focus upon Organized Crime, as presenting centrally defined and directed will be subject to the interests and vagaries of a host of U. S. Attorneys many of whom will hold office only for brief periods.

In our Federal Justice System U. S. Attorneys are of course subject to the general policy guidance of the Attorney General and in certain matters to very specific direction. However, it is fair to note that individual U. S. Attorneys enjoy substantial autonomy in the allocations of their available resources. Thus, to the extent the problems of drugs, public corruption, securities frauds, etc. are present in a particular District, the U.S. Attorney there can and will set the local priorities. A resulting reduction in the current national pressure upon the LCN might mean the abandoment of an objective now within reach -- elimination of the LCN as the premier form of Organized Crime in the U.S. and even as a viable form of crimianl organization.

Unlike the Organized Crime and Racketeering Section (OCRS), where fourteen Strike Forces and ten branch offices are staffed by career professionals, U.S. Attorneys Offices are not the most desirable hosts for sustained anti-organized crime efforts. In the main, these offices have frequent personal turn-over, as young attorneys gain trial experience, secure a desirable "credential", and depart for work in private practice or in other governmental positions.

Some Strike Force critics, including a number of former U.S. Attorneys, have pointed to the Southern District of New York as a model U. S. Attorney's Office doing outstanding anti-organized crime work. There is much substance to those comments. However, without intending to demean any other U. S. Attorney's Office it is fair, I think, to characterize the U.S. Attorney's Office in the Southern District of New York as sui generis. For a host of historical reasons including the effects of very positive traditions in that environment, that office is not representative. It is therefore not sound to generalize to suggest the likely viability of the Southern District model for national application. It should be noted that at least part of the anti-organized crime successes in the Southern District must be attributed to the activities in that area of the New York State Organized Crime Task Force. Under the direction of Ronald Goldstock, that Task Force has made material constributions to successful Federal efforts.

History indicates that many U. S. Attorneys--who are ultimately the products of a partisan political process-see and use their positions as stepping stones to other offices. That does not mean that such people fail to discharge their duties honestly or with vigor. However, it can and has in some situations meant that some U.S. Attorneys are sensitive to local, partisan political pressures and thereby forego investigative initiatives which might otherwise have been pursued. Strike Force personnel, are not subject to similar afflictions. They have no local political loyalities and/or concerns and are thereby free to pursue the containment and elimination of Organized Crime in any and all of its manifestations.

Understanding investigative agents, and learning how they think and work are not easy undertakings for most attorneys. They are time consuming tasks and involve skills not easily acquired. Further, understanding the ethos and traditions of each relevant investigative agency in the organized crime arena takes a good deal of time and effort. Strike Force attorneys learn of the necessity to do these things early on in their careers, and make the effort to achieve those results. Destroying operating Strike Force, where a collective wisdom exists, strikes me as very ill-considered and inevitably counter productive. I believe that the proposal to abolish the Strike Forces if implemented may well set back an increaingly successful campaign by many years.

That adjustments to the program machine may be necessary is certainly possible and perhaps desirable but--to mix metaphors--radical surgery is contra-indicated. I share your expressed view that more useful measures of effectiveness can and should be developed to assess the use of resources in the effort to contain Organized Crime. I do not however, subscribe to the view which suggests that our anti-Organized Crime program is best removed from its current, centrally-directed format and functionally diffused among the various U.S. Attorneys.

I would be happy to expand upon the foregoing if it would be of assistance to you.

Sincerely yours,

Charles H. Rogovin
Professor of Law

CHR:en

Federal Criminal Investigators Association
Office of Executive Director
15 Spinning Wheel Road, Suite 224
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(312) 789-2100

March 24, 1989

The Honorable Richard Thornburgh
Attorney General of the United States
Constitution Avenue and Tenth St., N.W.
Washington, D.C. 20530

Dear Mr. Attorney General:

I appreciated the opportunity to meet with you in Washington on the 21st, along with the other members of the National Law Enforcement Council, to discuss matters of mutual concern. We find these meetings informative and useful.

You commented on an issue at that meeting that caused us grave concern, the possible change in the structure of the Organized Crime Strike Forces. These strike forces since their inception years have been of immense value to local law enforcement and in most jurisdictions are the only effort being made to combat organized crime. Law enforcement efforts would be seriously effected if there is any diminution of effort in this area.

Organized crime is international in scope, it knows no boundaries, the national conspiracies to pursue its illegal activities makes it impossible for individual U.S. Attorneys offices to address this issue. We all know organized crime must be relentlessly and aggressively pursued. To give this responsibility to each U.S. Attorney office would be a serious tactical error. Every U.S. Attorney has his own agenda, priorities, and community problems to be addressed by limited resources. We in Chicago, as well as New York, have been fortunate to have aggressive U.S. Attorneys. That cannot be said necessarily of all jurisdictions throughout the nation.

The members of the strike forces have dedicated many years to understanding the problem and have acquired a specialty that is irreplaceable and cannot be acquired easily by individual U.S. Attorneys or assistants who in reality are not career prosecutors, but stay for a short time until the appropriate legal connections are made. They are also subject to some degree of community pressure and politics.

Most importantly, I believe action of this kind would signal, or at least give the appearance to the public, that organized crime is no longer a high priority to the administration, irrespective of the statements that we hear about the efforts to combat drugs.

"Dedicated to Recognition of Criminal Investigation as a Profession"

A review of the record will show that the reason we are so successful against organized crime is that a unified, dedicated national effort and resource was created to do only one thing, fight organized crime. There is an old saying "if its not broken don't fix it." If anything, the Strike Force resources should be greatly increased.

We hope that you will give these comments very serious consideration, they're shared by everyone at the meeting, which represents 400,000 law enforcement officers. I make these observations based on my twenty-eight years as a Special Agent with the IRS-Criminal Investigation Division, serving both under U.S. Attorneys and Strike Force attorneys in the fight against organized crime.

We are so concerned that we would appreciate your prompt response or comments in order to formulate our position. Thank you.

Sincerely yours,

Robt R. Fuesel

Robert R. Fuesel
Executive Director and
Immediate Past National President

RRF/reb

CHICAGO SUN-TIMES 3·28·89

Strike force end would help mob, Thornburgh told

By Adrienne Drell

Officials of two Chicago-based anti-crime groups warned Monday that mob influence in the United States could grow if the Justice Department shuts down its Organized Crime Strike Force.

372-0101

372-0104

The Chicago Crime Commission and the Federal Criminal Investigators Association sent letters of protest to Attorney General Dick Thornburgh, who has called for eliminating the 24 strike forces in cities across the nation.

Dick Thornburgh

In addition, former strike force attorneys say that Thornburgh's move stems from his rivalry with the strike force in Pittsburgh during the 1970s when he was U.S. attorney there.

Thornburgh has indicated he wants to transfer the personnel and the work of the units, set up in the 1960s to focus on organized crime, to U.S. attorneys' offices. The Chicago strike force has 13 attorneys.

A spokesman for Thornburgh said no final decision has been made on whether the forces will be eliminated.

Leaders of the 400-member crime commission and the 30,000-member investigators' association say dismantling the offices would dilute the effectiveness of the war against organized crime.

"It is our opinion that an agency with jurisdiction over a large number of criminal activities cannot concentrate enough manpower and time to do as effective a job in prosecuting members of the crime syndicate as the strike force has thus far demonstrated," Wesley S. Walton, president of the Crime Commission, wrote Thornburgh.

Robert R. Fuesel, executive director of the investigators' association, said mob power has waned due to successful strike force prosecutions in Chicago; Kansas City, Mo.; Brooklyn, N.Y.; Cleveland, and Buffalo, N.Y.

"I believe action of this kind would signal or at least give the appearance to the public that organized crime is no longer a high priority to the administration," he said.

Three former strike force attorneys in Pittsburgh recall the bitter rivalry Thornburgh had with the unit there while he was U.S. attorney from 1969 to 1974. They said Thornburgh would battle the strike force for high publicity cases involving local mobsters.

In the mid-'70s Thornburgh was appointed by the Ford administration to be assistant attorney general in charge of the Justice Department's criminal division. One of his first acts was to eliminate the Pittsburgh strike force, as well as those in St. Louis, Manhattan and New Orleans.

Peter Vaira, a former strike force chief in Chicago and former U.S. attorney in Philadelphia, says the call to abolish the units is an old one. "The fact the strike forces have existed so long indicates [their] phenomenal success and the extraordinary need for [them]," he said.

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March 28, 1989

Honorable Richard L. Thornburgh
Attorney General of the United States
U. S. Department of Justice
Washington, D.C. 20530

Dear Attorney General Thornburgh:

Ours is a not-for-profit, citizens crime commission which performs both research and watchdog roles designed to fight public corruption growth and to upgrade the level of criminal justice in our metropolitan community and state.

Over the past 36 years of our existence we have often been a "citizens' voice" in support of effective criminal justice at the local, state and federal levels. Accordingly, we supported and testified for the bill in Congress which created the National Organized Crime Strike Forces of the U.S. Department of Justice. With that rather broad identification of our background, we want, respectfully, to express our deep concern over media stories of your alleged plans to disband those "Strike Forces."

In the past ten years the United States Department of Justice (USDJ) Strike Forces have been exceptionally successful in removing the dominant leadership control of "La Cosa Nostra (LCN)" in more than a dozen key urban areas of our nation-- a remarkable milestone in demonstrating that the "rule of law," and not domination of communities and regions by hoodlums, can be a reality in our country.

Given the covert national structure of the LCN, its overall strength and its proven potential for undermining the effectiveness of our local and state criminal justice systems, it is our strong conviction that only a "strike force concept" that can provide uniform and continued concentration of increasing prosecutorial expertise extending beyond judicial districts can truly finish the important job of paralyzing the LCN.

If you disband the National Organized Crime Strike Forces and turn the matter over to some 95 independent U.S. Attorneys throughout the nation, the sustained national effort against organized crime, in our opinion~~, will~~ have been lost.

The above comments are not by any means meant to be an indictment of any ineptness on the part of United States Attorneys. In particular, we believe we have one of the best and most aggressive U.S. Attorneys in the nation in the Eastern District of Louisiana. It is simply that U.S. Attorneys have a multiplicity of prosecutorial obligations and related tasks to perform of varying degrees of importance. Hence, if "Strike Forces" are abandoned and "organized crime" specialists are assigned to U.S. Attorneys, it is a practical certainty their specialized and combined efforts in targeting LCN and other organized crime groups will be dissipated. We believe that would be a tragedy.

If we abandon the current concept of the Organized Crime Strike Forces, we believe we will be guilty of permitting organized crime to revive in the forthcoming years to plague the stability of key urban area governments and, indeed, make possible once again widespread corruption growth in government, business and in national labor organizations. Consider if you would the fact that in 1976 the "Strike Force" was taken out of New Orleans and 2 years later the "Strike Force" had to be restored in New Orleans in order to effectively combat the Carlos Marcello organized crime family.

In essence, to competently combat organized crime, principally La Cosa Nostra, a national mechanism such as the Strike Forces, dedicated solely and uniformly to the legitimate demise of organized crime with all due process and all due speed is an imperative, in our opinion.

Remove or disband the National Organized Crime Strike Forces and you will diffuse our accrued organized crime prosecutorial expertise and coordination, scatter our concentrated efforts and render our prosecutive potential considerably less potent.

Please do not undermine the national public support achieved and nurtured by the commendable accomplishments of the U. S. Department of Justice so manifest in the victories scored by "Strike Forces" over the past decade. We urge you to keep the "Strike Forces" intact with orders to intensify their efforts to rid the nation of the menace inflicted upon us by the LCN and other organized crime groups.

Respectfully submitted,

Warren C. de Brueys
Warren C. de Brueys,
Managing Director

and

James P. Schwartz, President

FOR AND ON BEHALF OF THE
BOARD OF DIRECTORS

cc: Mr. Edward Dennis (USDJ Criminal Division)

chicago
crime
commission

79 WEST MONROE
CHICAGO, ILLINOIS 60603
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OFFICE OF THE PRESIDENT

RECEIVED BY
SENATE PERMANENT
SUBCOMM ON INVESTIGATIONS

APR 10 1989

MAJORITY OFFICE

March 27, 1989

U.S. Attorney General Richard Thornburgh
Department of Justice
Constitution Avenue and Tenth Street NW
Washington, DC 20530

Dear General Thornburgh:

I am writing to you to express the concerns of the members of the Chicago Crime Commission regarding the recent news reports of your tentative decision to abolish most or all of the federal regional Organized Crime Strike Forces.

The members of the Chicago Crime Commission share the concern expressed by you and President Bush about the multitude of crimes committed against Americans throughout this country each year. These crimes range from simple theft, burglary, robbery, murder, to the manufacture, delivery and personal use of narcotics and dangerous drugs. We support you and the President in your efforts to combat crime and win the war on drugs.

The Chicago Crime Commission believes, however, that in a number of major U.S. cities, and in particular in Chicago, there must be constant vigilance over the members of organized crime and their criminal activities. Furthermore it is our organization's belief that only a body of professionals devoting their sole attention to the gathering of information regarding the criminal acts, conspiracies and enterprises of the syndicate can accumulate enough evidence in order to successfully prosecute and convict a greater number of members of organized crime.

We believe that the Federal Organized Crime Strike Force in Chicago working in concert with local, county, state and Federal authorities and the local U. S. Attorney, has been especially successful in obtaining the conviction of the top Chicagoland members. We believe these convictions were brought about primarily through the efforts of the Strike Force which over the years has developed tremendous expertise and experience in the methods of investigation, case preparation and successful prosecution of organized crime members. It is our opinion that an agency with jurisdiction over a large number of criminal activities cannot concentrate enough manpower and time to do as effective a job in prosecuting members of the crime syndicate as the Strike Force has thus far demonstrated.

We, therefore, believe that merging the present members of the Strike Force into the local U. S. Attorney's Office will result in diverting their attention from focusing on Organized Crime to the investigation of other crimes and thus result in the loss of expertise and sophistication that took years to develop. The message that the Department of Justice's highly successful and visible war against organized crime is no longer a national priority should not be conveyed to the general public, members of law enforcement, and more importantly to the crime syndicate.

We ask you to carefully consider our concerns in this matter and retain the Strike Forces so that the successful prosecution of organized criminals in general and of the mob in the Chicago area in particular will continue.

Very truly yours,

Wesley S. Walton
President

WSW:idt

cc: Mr. John J. Jemilo

Illinois Association of Chiefs of Police

P.O. BOX 409
WINNETKA, IL 60093
312-446-3717

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March 30, 1989

U.S. Attorney General Richard Thornburgh
Department of Justice
Constitution Avenue and 10th Street, N.W.
Washington, D.C. 20530

Dear Attorney General Thornburgh,

I am writing to you to make you aware of our concern regarding the recent news reports in the Chicago Tribune indicating that you may eliminate the 24 Strike Forces located in cities across the nation.

It is the opinion of the Illinois Association of Chiefs of Police that any dismantling of these important offices would dilute the effectiveness of the war against organized crime. In all probability, the elimination of these Strike Forces would signal, or at least give the appearance to the public, that organized crime is no longer a high priority for federal law enforcement agencies.

Considering the phenomenal success that these units have experienced in this geographical area along with the continuing need for their presence, we ask that you give consideration for our concerns in this important matter.

Sincerely,

Chief Carl Dobbs

Chief Carl Dobbs
President

cc: Donald Derning, Executive Director ✓
John J. Jemilo, Executive Director ✓

NACCC

National Association of Citizens Crime Commissions

117 W. College Avenue
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April 5, 1989

Honorable Richard L. Thornburgh
Attorney General of the United States
U. S. Department of Justice
Constitution Avenue and Tenth Street, N.W.
Room 511
Washington, D.C. 20530

Dear Attorney General Thornburgh:

The National Association of Citizens Crime Commissions (NACCC) is a nonprofit, nonpolitical organization representing crime commissions throughout the United States. Our primary objective is to network crime commissions on a national level and promote public awareness for effective crime prevention measures. The member organizations work together to exchange pertinent criminal justice information and to collectively support the efforts of professional law enforcement on a local, state and federal level. In addition, the NACCC focuses on criminal justice issues of national importance.

The NACCC has endorsed and supported the National Organized Crime Strike Force of the United States Department of Justice. On behalf of our organization, I respectfully express deep concern over any proposed plan to disband the "Strike Force." It is our belief that in the past ten years, the Strike Force has been exceptionally successful in removing the dominant leadership control of "La Cosa Nostra," by obtaining the conviction of the leadership in major cities throughout the United States. The success of the Federal Organized Crime Strike Force has sent a clear message that the United States Department of Justice is concentrating specialized forces on the removal of LCN activities in this country.

If you disband the national organized crime Strike Force, and turn the matter over to some ninety-five independent U.S. Attorneys throughout the nation, we

Honorable Richard L. Thornburgh
April 5, 1989
Page Two

believe you will be sending a wrong message to the La Cosa Nostra. In our opinion, you will de-emphasize the importance of the continued activities of a concentrated force working toward the eradication of the LCN.

It is our belief that the time, money and experience dedicated to this important endeavor has been well spent. We question the necessity for changing a successful program.

The NACCC shares your concern about the multitude of crimes committed against Americans throughout this country each year. We support you in your efforts to combat crime and win the war on drugs. It is our opinion that an agency already overburdened with jurisdiction over a large number of criminal activities cannot adequately concentrate enough manpower and time to do as an effective job in prosecuting members of the crime syndicate as the Strike Force has thus far demonstrated.

I ask you to carefully consider our concerns in this matter, and retain the Strike Force. Prior to reaching a final decision, I would appreciate an opportunity to discuss the matter with you in greater depth.

Sincerely,

Ted Duncan, Jr.
President

United States Senate
WASHINGTON, DC 20510

April 6, 1989

Honorable Richard L. Thornburgh
Attorney General
United States Department of Justice
10th & Constitution Avenue, NW
Washington, D.C. 20530

Dear Mr. Attorney General:

We are writing to express concern over published reports concerning the Department's pending proposal to abolish the Department of Justice Organized Crime Strike Force Program.

Given the success of the Organized Crime Strike Force Program over the past 20 years, we believe that a decision to abolish the strike forces could hamper federal law enforcement capabilities at a time when many areas are overwhelmed with organized crime and illegal drug activity. As you have stated in speeches and testimony before the Senate Judiciary Committee, some of the reasons giving rise to the establishment of organized crime strike forces still apply, including the need for seasoned prosecutors who can commit the time necessary to prepare these cases and who are free of daily criminal docket obligations. The Senate included an important provision in Title I of the 1988 drug bill mandating a comprehensive reorganization study which should be completed in several months. A decision as important as this would benefit from the results of that study.

Accordingly, we urge you to delay any such decision until the appropriate Committees of the Congress have reasonable time to consider your proposal. We pledge to do so expeditiously.

In this connection, we would appreciate receiving any data you may have concerning the performance of the strike forces in recent years. We look forward to working closely with you on this and other important law enforcement issues.

Sincerely,

Ted Kennedy

Strom Thurmond

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United States Senate
COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510-6275

April 11, 1989

The Honorable Richard Thornburgh
Attorney General
U.S. Department of Justice
Washington, D.C. 20530

Dear General ~~Thornburgh~~: Dick

I called you this morning to discuss the numerous reports in recent weeks that you have tentatively decided to abolish the Organized Crime Strike Forces and transfer those resources to the U.S. Attorneys. As you know, many people have expressed concerns about the wisdom of such a policy change.

More important, Section 1053 of the Anti-Drug Abuse Act of 1988 requires the Drug Director, in consultation with the Attorney General, to report to Congress in November of this year on the appropriateness of making other, more far-reaching organizational changes that would involve the strike forces and other components of the Department of Justice. Specifically, the Drug Director is required to evaluate the restructuring and consolidating of the organized crime strike forces, the Narcotics and Dangerous Drug Section, the Asset Forfeiture Office, and the Drug Enforcement Task Forces into a new division of the Department of Justice.

Because any decision at this time to abolish the strike forces affect any changes being evaluated by the Drug Director, I hope that you will be willing to discuss this matter before making any final decision. Specifically, I hope that your staff will sit down with my staff and staff representing Senators Kennedy, Thurmond, Nunn, and Specter (who have written to you about this matter), to discuss the ramifications of any proposed changes and their impact on the congressional directive set forth in Section 1053.

I look forward to working with you on this issue.

Sincerely,

Joseph R. Biden, Jr.
Chairman

METROPOLITAN CRIME COMMISSION OF NEW ORLEANS, INC.

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July 21, 1989

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JUL 26 1989
MAJORITY OFFICE

Ms. Eleanore J. Hill, Chief Counsel
Permanent Subcommittee on Investigations
Committee on Governmental Affairs
United States Senate
Washington, D. C. 20510-6250

Dear Ms. Hill:

This is in response to your letter of 7/14/89 inviting any additional comments this Commission may have concerning the more recently published details of the proposed merger of U. S. Department of Justice Strike Forces with U. S. Attorney's Offices.

We have read the copies of recent press releases issued by the U. S. Department of Justice provided in your letter of 7/14/89. Our opinion remains precisely as stated in our letter to Attorney General Richard L. Thornburgh, dated 3/28/89, a copy of which is attached.

We truly appreciate your having offered an opportunity to us to update our position concerning the Strike Forces. Should you need further information from us, do not hesitate to contact us for same.

Sincerely,

Rafael C. Goyeneche III

Rafael C. Goyeneche, III
Acting Managing Director

Encl.

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March 28, 1989

Honorable Richard L. Thornburgh
Attorney General of the United States
U. S. Department of Justice
Washington, D.C. 20530

Dear Attorney General Thornburgh:

Ours is a not-for-profit, citizens crime commission which performs both research and watchdog roles designed to fight public corruption growth and to upgrade the level of criminal justice in our metropolitan community and state.

Over the past 36 years of our existence we have often been a "citizens' voice" in support of effective criminal justice at the local, state and federal levels. Accordingly, we supported and testified for the bill in Congress which created the National Organized Crime Strike Forces of the U.S. Department of Justice. With that rather broad identification of our background, we want, respectfully, to express our deep concern over media stories of your alleged plans to disband those "Strike Forces."

In the past ten years the United States Department of Justice (USDJ) Strike Forces have been exceptionally successful in removing the dominant leadership control of "La Cosa Nostra (LCN)" in more than a dozen key urban areas of our nation-- a remarkable milestone in demonstrating that the "rule of law," and not domination of communities and regions by hoodlums, can be a reality in our country.

Given the covert national structure of the LCN, its overall strength and its proven potential for undermining the effectiveness of our local and state criminal justice systems, it is our strong conviction that only a "strike force concept" that can provide uniform and continued concentration of increasing prosecutorial expertise extending beyond judicial districts can truly finish the important job of paralyzing the LCN.

If you disband the National Organized Crime Strike Forces and turn the matter over to some 95 independent U.S. Attorneys throughout the nation, the sustained national effort against organized crime, in our opinion, will have been lost.

The above comments are not by any means meant to be an indictment of any ineptness on the part of United States Attorneys. In particular, we believe we have one of the best and most aggressive U.S. Attorneys in the nation in the Eastern District of Louisiana. It is simply that U.S. Attorneys have a multiplicity of prosecutorial obligations and related tasks to perform of varying degrees of importance. Hence, if "Strike Forces" are abandoned and "organized crime" specialists are assigned to U.S. Attorneys, it is a

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Nonpartisan, Nonprofit Citizen Involvement in Law Enforcement and Criminal Justice practical certainty their specialized and combined efforts in targeting LCN and other organized crime groups will be dissipated. We believe that would be a tragedy.

If we abandon the current concept of the Organized Crime Strike Forces, we believe we will be guilty of permitting organized crime to revive in the forthcoming years to plague the stability of key urban area governments and, indeed, make possible once again widespread corruption growth in government, business and in national labor organizations. Consider if you would the fact that in 1976 the "Strike Force" was taken out of New Orleans and 2 years later the "Strike Force" had to be restored in New Orleans in order to effectively combat the Carlos Marcello organized crime family.

In essence, to competently combat organized crime, principally La Cosa Nostra, a national mechanism such as the Strike Forces, dedicated solely and uniformly to the legitimate demise of organized crime with all due process and all due speed is an imperative, in our opinion.

Remove or disband the National Organized Crime Strike Forces and you will diffuse our accrued organized crime prosecutorial expertise and coordination, scatter our concentrated efforts and render our prosecutive potential considerably less potent.

Please do not undermine the national public support achieved and nurtured by the commendable accomplishments of the U. S. Department of Justice so manifest in the victories scored by "Strike Forces" over the past decade. We urge you to keep the "Strike Forces" intact with orders to intensify their efforts to rid the nation of the menace inflicted upon us by the LCN and other organized crime groups.

Respectfully submitted,

Warren C. de Brueys
Warren C. de Brueys,
Managing Director

and

James P. Schwartz
James P. Schwartz, President
FOR AND ON BEHALF OF THE
BOARD OF DIRECTORS

cc: Mr. Edward Dennis (USDJ Criminal Division)

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August 18, 1989

Honorable Richard L. Thornburgh
Attorney General of the United States
Department of Justice
Room 5111
Washington, DC 20530

Re: Reclassification of Organized Crime Strike Force Attorneys as Assistant U.S. Attorneys

Dear Attorney General Thornburgh:

My former deputy and successor as U.S. Attorney in Boston, Bob Mueller, has asked that I submit to you my views concerning the proposed reclassification of Organized Crime Strike Force Attorneys as Assistant U.S. Attorneys.

By way of background, as you know, I was a United States Attorney from 1981 to 1986, served as Chairman of the Attorney General's Advisory Committee of U.S. Attorneys during 1986, and served as Assistant Attorney General in charge of the Criminal Division in Washington from 1986 to 1988.

I am familiar with the arguments advanced on both sides of the so-called "Strike Force issue" during 1986-1988. This dialogue led to Attorney General Meese's Order of January 20, 1988, reaffirming the United States Attorney's role as the chief federal prosecutor in each district, requiring the U.S. Attorney's written approval for various steps in Strike Force cases, directing that the United States Attorney handle all media relations in Strike Force cases, and providing that the U.S. Attorney in the headquarters city of each Strike Force would be the rating official for the annual performance rating of the Strike Force attorney in charge.

I understand there is now a proposal under active consideration to let the other shoe drop, and reclassify Organized Crime Strike Force field attorneys as Assistant U.S. Attorneys in the district in which they work.

I do not regard such a reclassification at the present time as being either a radical step or an unwise one, provided it is accompanied by satisfactory guarantees that the Organized Crime Strike Force program will not lose focus and that its resources will not be bled away to other temporarily attractive priorities.

I would suggest you might wish to consider the following measures as constituting such appropriate guarantees:

1. Grandfather all current Strike Force field attorneys, both supervisory and line attorneys.

2. Honor all outstanding Strike Force hiring commitments.

3. Require that the Strike Force field attorneys be formally constituted as an "Organized Crime Strike Force Unit" within each headquarters U.S. Attorney's office.

4. Require the written concurrence of the Assistant Attorney General in charge of the Criminal Division in Washington for the hiring or transfer by a U.S. Attorney of any Strike Force attorney, either supervisory or line.

5. Provide for funding of the Organized Crime Strike Force AUSA's via a separate pot of money, in the same manner as the OCDETF AUSA's are now funded.

6. Require that the Strike Force units be filled by full-time dedicated positions by name of Assistant U.S. Attorney, not by attorney work-years. This is critical in order to prevent a United States Attorney from diverting organized crime resources to such other priorities as drugs or public corruption, which may seem to offer a more immediate return.

7. Keep the same case management system as now exists, i.e., require the same approvals from the Organized Crime and Racketeering Section in Washington for Case Initiation Reports, indictments, etc. (Obviously the U.S. Attorney would have to sign off too, but that is required currently.) Through its review of CIR's and proposed indictments, the Organized Crime and Racketeering Section should be in a position to maintain nationwide prosecutive priorities in such areas as labor racketeering and OC penetration of legitimate business in such industries as construction, transportation, hotel, restaurant, entertainment, etc.

8. My experience has been that OCDETF AUSA's do not ride circuit to other districts as much as Organized Crime Strike Force attorneys have done (for example, in Boston, Kansas City and New Orleans). It is tough to get someone who is an Assistant U.S. Attorney to go spend six to nine months in another district. Therefore, it would seem appropriate to add ten to twenty trial attorneys to the Organized Crime and Racketeering Section in Washington, and require them to ride circuit in the manner of attorneys from the Public Integrity Section or the Fraud Section of the Criminal Division, to districts having major organized crime matters without the resources to address them. The "flying squadron" capacity of the Washington office of OCRS has shrunk since the old days of Strike Force 18, and it should be stepped up somewhat if the reclassification proposal goes forward. (The recent need for Fraud Section attorneys to handle the explosion of bank fraud cases in rural Texas and Oklahoma is a good analogy.)

9. No reduction in the number of attorneys assigned to any Organized Crime Strike Force Unit should be permitted without the written consent of both the Assistant Attorney General in charge of the Criminal Division and the Deputy Attorney General. This requirement would make such a reduction difficult, and would be designed to do so.

10. In addition to the above provisos, which are principally designed to guarantee against dissipation of Strike Force resources, other steps could appropriately be taken to guarantee a continued national focus on organized crime priorities.

The first line of defense here is the Federal Bureau of Investigation, which of course continually revises and updates its organized crime intelligence and evaluation on a worldwide basis. In addition to this, I think that a somewhat more tangible embodiment of the commitment to an ongoing national focus would be a good idea.

I understand there is a proposal to create an Organized Crime Council, chaired by the Deputy Attorney General and having as members the AAG of the Criminal Division, the heads of the relevant investigative agencies, and a designee of the Attorney General's Advisory Committee of U.S. Attorneys.

My only thought here is to suggest that there be not one but fourteen U.S. Attorneys on the Council. The success of the Economic Crime Council has been due in no small measure to the active participation by a substantial number of U.S. Attorneys -- for example, the presentations by New Orleans concerning bank fraud, New Jersey and Washington concerning equity skimming cases, and the work of Tony Valukas' white-collar crime subcommittee of the AGAC in putting out a series of pamphlets on white-collar crime matters.

Ideally, the same thing would happen with the Organized Crime Council. Getting the benefit of the energy of the U.S. Attorneys -- and the energetic investment of all the resources at their command -- in support of the organized crime enforcement effort is, after all, the best rationale for the reclassification move in the first place.

Please feel free to have a staff member give me a call at 617-742-9100 if you would like me to explore any of these points in further detail.

Sincerely,

Bill Weld

William F. Weld

chicago
crime
commission

79 WEST MONROE
CHICAGO, ILLINOIS 60603
312-372-0101

john j. jemilo
EXECUTIVE DIRECTOR

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AUG 24 1989

MAJORITY OFFICE

August 21, 1989

Senator Sam Nunn, Chairman
Permanent Subcommittee on Investigations
Russell Senate Office Building
Room 100
Washington, D.C. 20510

Dear Senator Nunn:

At the invitation of your Subcommittee's Chief Counsel, Eleanore J. Hill, I am writing to express the opinion of the Chicago Crime Commission concerning the proposal of Attorney General Richard Thornburgh to consolidate the Organized Crime Strike Forces.

Since testifying against this action before the House of Representatives Subcommittee on Criminal Justice on June 20, 1989, the Commission's position on the matter remains unchanged. Members of the Commission, along with the National Association of Citizens Crime Commissions and law enforcement personnel who have contacted our office, still maintain that abandoning the current concept of the Strike Forces will seriously undermine the critical fight against organized criminal activity.

Enclosed with this letter I have provided for your Subcommittee's consideration a statement which details the reasons behind the Chicago Crime Commission's opposition. The promise for stability and safety in many key urban areas across the country will be dramatically affected by the Subcommittee's decision. We therefore hope you will find our statement informative and persuasive.

Please contact the Commission at 312-372-0101 if we may be of further assistance.

Most Sincerely,

John Jemilo

JJ:dh
Enclosure

CITIZENS COMBATING CRIME IN METROPOLITAN CHICAGO SINCE 1919

Statement
for the
United States Senate
Permanent Subcommittee on Investigations
Regarding
Organized Crime Strike Forces
by the
Chicago Crime Commission

John J. Jemilo
Executive Director
August 21, 1989

The Chicago Crime Commission was founded in 1919, by citizens and members of the business community who were concerned about organized crime and its growing influence in the business community. Over the past 70 years of its existence, the Commission has often represented the voice of the people of Chicago in support of effective criminal justice services at the local, state, and federal levels. The Commission is well recognized for its relentless efforts to fight organized crime, both at the local and national levels.

The Commission shares the concern expressed by President George Bush, U.S. Attorney General Richard Thornburgh, and members of Congress about the multitude of crimes committed against Americans throughout this country each year. These crimes range from simple theft, burglary, robbery and murder, to the manufacture, delivery and personal use of narcotics and dangerous drugs. We especially support the President and Congress in the efforts to control crime and win the drug war.

The purpose of this statement, however, is to convey the Commission's apprehension regarding the proposal by the Attorney General to abolish the Organized Crime Strike Forces. The Chicago Crime Commission believes that in a number of major U.S. cities, and in particular in Chicago, there must be constant vigilance by both local and federal authorities over the members of organized crime. We believe that a group of professionals devoting their sole attention to the gathering of information regarding the criminal acts, conspiracies and enterprises of organized crime members is the most effective approach to achieving the greatest number of prosecutions and convictions of such individuals.

It is our strong conviction that only through a Strike Force commitment which provides a uniform, consistent and long term concentration of professional investigative and prosecutorial expertise extending beyond judicial districts will we ever be successful in the critical fight against organized crime or the "Outfit" as it is known in Chicago.

It is the Commission's belief that the Organized Crime Strike Force has succeeded in three areas: 1) conducting multi-district investigations, 2) attracting and retaining experienced prosecutors, and 3) handling organized crime investigations outside of Strike Force cities.

1. CONDUCTING MULTI-DISTRICT INVESTIGATIONS

Over the last several years we have seen the bearing of fruit of literally decades of organized crime investigations conducted throughout the United States. A number of the more significant, high impact federal prosecutions have been the result of multi-district, multi-Strike Force investigations nationally coordinated. Perhaps the best known in the Midwest was the prosecution in Kansas City of virtually the entire leadership of the Chicago, Kansas City and Milwaukee Organized Crime Families for their secret ownership of and skimming from Las Vegas casinos as well as the manipulation of loans from the Teamsters Central States Pension Fund in order to purchase their hidden interests. That investigation took more than eight years and included wiretaps, grand jury proceedings, and other investigative techniques in Chicago, Milwaukee, Kansas City, Cleveland and Las Vegas — all coordinated nationally by the Organized Crime and Racketeering Section of the Department of Justice and conducted in large part by the Kansas City and Chicago Strike Forces.

The Kansas City prosecution was preceeded by a prosecution in Chicago by the Chicago Strike Force of Teamsters President Roy Williams, Teamsters influence peddler Allen Dorfman, and Chicago "Outfit" boss Joseph "Joey the Clown" Lombardo for conspiring to bribe a United States Senator in an attempt to thwart legislation pending in the Senate to deregulate the trucking industry. Among the other results from that prosecution was the "turning" of Roy Williams as a government witness. Williams then testified in the Kansas City casino skimming prosecution, and later by deposition in the New York Teamsters civil RICO case, that during his years as a high ranking Teamsters official and trustee of the Central State Pension Fund, he had been controlled by the Kansas City Organized Crime Family.

More recently, the civil racketeering suit brought by the United States Attorney's Office in Manhattan against the Executive Board of the International Brotherhood of Teamsters and a number of organized crime figures has resulted in well deserved public attention and praise for the United

States Attorney, but it should also be recognized that a great deal of the evidence upon which that case was based - evidence which demonstrated organized crime's control of the national leadership of the teamsters - came from Strike Force investigations in Brooklyn, Chicago, Cleveland, Milwaukee, Kansas City, Las Vegas and other cities.

2. ATTRACTING AND RETAINING EXPERIENCED PROSECUTORS

Due to the career orientation of the Strike Forces, the non-political nature of the appointments of the Strike Force Attorneys-in-Charge, the leadership of the Organized Crime and Racketeering Section in Washington, D.C. and the nature and quality of their work, the Strike Forces have been able to recruit and retain experienced, sophisticated, professional prosecutors and to focus their work and training on conducting complex, long term organized crime investigations and trials. We've been particularly impressed by the ability of the Strike Forces to provide continuity to organized crime investigations, which sometimes take five or more years to investigate, by assigning a team of prosecutors to conduct the entire investigation and resulting trial.

The Chicago Strike Force is staffed with attorneys who average more than 14 years experience as prosecutors. The Attorney in charge in Chicago, Mr. Gary Shapiro, has been a federal prosecutor for more than 17 years; his two deputies have more than 17 and 19 years of experience as federal prosecutors, and there are two former state prosecutors on the staff of the Chicago Strike Force who both tried numerous capital murder cases prior to their becoming federal prosecutors.

3. HANDLING OF ORGANIZED CRIME INVESTIGATIONS OUTSIDE OF STRIKE FORCE CITIES

One of the more troubling aspects of the Attorney General's merger proposal is its unrealistic attitude toward the handling of organized crime matters in cities other than where Strike Forces are currently located. As we understand the proposal, if organized crime matters arise in a city which does not have a Strike Force office, the Attorney General, on the request of the local United States Attorney, will dispatch assistance from Washington, D.C. By contrast, as things now stand, if organized crime activities need to be investigated in Northern Indiana, for example, where organized crime figures constitute a faction of the Chicago "Outfit", or in Milwaukee, whose organized crime family is subservient to the Chicago "Outfit", the Chicago Strike Force which has handled these matters for more than twenty years, would conduct the investigation. It is difficult to believe that local U.S. Attorneys and members of local law enforcement agencies would have more confidence in prosecutors from Washington, D.C. totally unfamiliar with the local scene, than with the local Strike Force office which has worked with them for decades. It is also hard to believe that sensitive investigations would benefit from this strained process.

We further believe that a merger between the local U.S. Attorney's Office and the Organized Crime Strike Forces could result in reducing the number and quality of organized crime investigations and prosecutions. The single most important characteristic of the federal government's current organized crime program is the dedication and segregation of resources into the Strike Forces with just one clear cut goal - the eradication of the influence of organized crime. Unlike the United States Attorney's Offices, which within a given judicial district handle not only all criminal prosecutions for the federal government, but also represent the United States in federal court in all civil matters as well, the Strike Forces have only one assignment: to focus on organized criminal activities. The United States Attorney's Office, by their very nature, must not only accommodate frequent changes of United States Attorneys, but also frequent shifts in the local priorities of the United States Attorney. That's not to say that there is anything wrong with a shift and a change of priorities and goals, in fact, the United States Attorney's Office must be flexible enough to shift resources as the needs of their districts change. Be that as it may, as this year's emphasis on narcotics prosecutions in a particular district changes to next year's on possibly defense procurement fraud and possibly the following year to savings and loan frauds, priority, concentration, and sustained organized crime investigations could inevitably be lost.

The Commission wants to clarify that these observations are by no means an attack on the integrity, dedication, and aggressiveness of our local U.S. Attorneys. It is simply that U.S. Attorneys have a wide range of crimes to prosecute, and many related tasks to perform depending on the importance placed on certain crimes and the priorities of the public and local officials to which the U.S. Attorneys must respond. Hence, if Strike Forces are abandoned and their organized crime specialists are assigned as U.S.

Attorneys, it is very likely that their specialized and combined efforts in targeting the members of organized crime will be dissipated or at least diluted.

The Federal Organized Crime Strike Force in Chicago working in concert with local, county, state and Federal authorities and the local U.S. Attorney, has been especially successful in obtaining the conviction of the top Chicagoland Organized Crime members. These convictions were brought about primarily through the efforts of the Strike Force which over the years has developed tremendous expertise and experience in the methods of investigation, case preparation and successful prosecution of organized crime members. It is the Chicago Crime Commission's opinion that an agency with jurisdiction over a large number of criminal activities may not concentrate enough manpower and time to conduct the extensive and long term investigations necessary to strip away the insulating layers of deception that are used to conceal organized criminal activities.

The following cases illustrate the kind of successful prosecutions which have been accomplished by the dedicated and specialized attorneys of the Organized Crime Strike Force in Chicago:

United States vs. Allen Dorfman, No. 8I-CR-269, N.D. Ill., 5/22/81. This was an FBI investigation using extensive electronic surveillance which turned up a plot to bribe a sitting United States Senator while probing the "Outfit's" connection with the Teamsters. Allen Dorfman was, at the time, the principal conduit used to funnel money out of the gigantic Central States Pension Fund. His co-defendants included then Teamster president Roy Lee Williams, Chicago "Outfit" capo Joseph "Joey the Clown" Lombardo and two pension fund trustees. All were convicted on interstate bribery, mail fraud and conspiracy charges on December 15, 1982, following a two-month jury trial. On January 10, 1983, Dorfman was the victim of a gangland slaying. Following a study of his health, Williams was sentenced to ten years in prison and later testified as a Government witness. Lombardo was fined $29,000 and sentenced to 15 years in prison on March 31, 1983.

United States vs. Frank Peter Balistrieri, No. 81-CR-152, E.D. Wis., 10/1/81. This was a gambling prosecution against the Boss, Balistrieri, and underboss, Steve DiSalvo of the Milwaukee Organized Crime Family. Following a four-week jury trial they were convicted on October 9, 1983, of both illegal gambling and failure to file wagering taxes. On May 29, 1984, Balistrieri was sentenced to 13 years in prison in the extortion case; DiSalvo was to serve eight years. The case was another joint effort by the FBI and IRS based on an FBI electronic surveillance.

United States vs. Frank Peter Balistrieri, No. 81-CR-153, E.D. Wis., 10/1/81. This was an extortion prosecution of the Boss of the Milwaukee Organized Crime Family based upon an FBI undercover probe of his monopolistic control of the vending machine business in that area. Included as defendants were his sons, Joseph and John Balistrieri, both attorneys. Following a jury trial, all were convicted on April 9, 1984, and sentenced on May 29, 1984.

Frank Balistrieri was sentenced to 13 years in jail and fined $30,000. His sons were to serve eight years (subsequently reduced to five years) and were each fined $20,000.

United States vs. Joseph "Little Caesar" DiVarco, No. 83-955, N.D. Ill., 12/7/83. On September 27, 1984, Peter Dunias, a Chicago "Outfit" member, was convicted of extortion and on November 14, 1984, sentenced to six years in prison. Dunias had shaken down bar operators for protection. DiVarco was acquitted, but see No. 84-507, below.

United States vs. Joseph "Little Caesar" DiVarco, No. 84-507, N.D. Ill. 6/27/84. This was a gambling and wagering tax evasion prosecution worked jointly by the FBI and IRS but founded primarily on FBI electronic surveillance. Following a six-week jury trial, DiVarco, a Chicago "Outfit" underboss, was convicted on January 9, 1985, and sentenced to imprisonment for ten years on March 19, 1985. He was jailed pending sentence and appeal under the Crime Control Act of 1984 following a two-day hearing. Also jailed was co-defendant Ronald Ignoffo, a suspected "hit man" for DiVarco. DiVarco was also fined $60,000, the largest fine ever imposed in that district. DiVarco died in prison.

United States vs. Thomas Covello, Sr., No. 84-556, N.D. Ill., 7/18/84. This was a RICO/theft prosecution built around an FBI electronic surveillance brought against an Organized Crime-controlled "chop shop" operation in Chicago. Following a three-week jury trial, six defendants were found guilty of RICO charges, four of whom were also convicted of interstate theft charges. Twelve defendants pled guilty before trial. Sentences ranging from eight years (for Covello) down to five years' probation were passed on May 28, 1985. Also active in the investigation was the Chicago Police Department.

Civil Contempt: On April 21, 1986, Steve J. DiSalvo, former underboss of the Milwaukee crime family, was jailed for civil contempt for his refusal to comply with a court order relative to a grand jury. All time served pursuant to this commitment was to be in addition to that which he was awarded in No. 81-CR-152, above.

These cases are only illustrative, and not all inclusive, of the effectiveness of the Chicago Organized Crime Strike Force and do not convey the arduous and dedicated efforts that are essential to such successful prosecutions.

In conclusion the Chicago Crime Commission believes that if the current concept of the Organized Crime Strike Forces is abandoned, organized crime will revive in the forthcoming years to plague the stability of key urban areas and, indeed, make possible once again widespread corruption in government, business and in national labor organizations. Removal of the National Organized Crime Strike Forces could diffuse the accrued organized crime prosecutorial expertise and coordination, scatter the concentrated efforts and render the prosecutive potential considerably less potent.

August 23, 1989

STATEMENT OF THOMAS F. MC BRIDE SUBMITTED TO THE U.S. SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS re Proposed Abolition of the U.S. Department of Justice Organized Crime Strike Forces

From 1961 to 1965 I was a Trial Attorney with the Organized Crime Section of the U.S. Department of Justice. From 1983 to 1986 I was a member of the President's Commission on Organized Crime. In addition to those assignments I held a number of other prosecutive, investigative and governmental posts. (See attached curriculum vitae.)

In my view the proposed total abolition of the Organized Crime Strike Forces is not a sound proposal. I base this judgment on my experience as an organized crime prosecutor and as a member of the President's Commission on Organized Crime.

When I started as a Justice Department Organized Crime prosecutor back in 1961, there were no such things as "strike forces." Attorney General Robert F. Kennedy sent us out into the field with his mandate relentlessly to pursue organized crime. Unfortunately, his mandate didn't mean that much in Philadelphia, where I was first sent. The local U.S. Attorney, some federal judges, and even the F.B.I. on occasion, tried to block investigations I was pursuing. Notwithstanding this opposition, some major prosecutions resulted, including one of the first successful test cases under the then newly passed "Travel Act" and the joint prosecution of the Mayor and rackets boss of the then notoriously corrupt city of Reading, Pennsylvania.

There are two key lessons to be gleaned from this experience.

One. U.S. Attorneys are oftentimes very political and have conflicting allegiances that compromise their ability or willingness to really go after organized crime, particularly when it is allied, as it regrettably is sometimes, with political power.

Two. In these situations an independent strike force, beholden to no person or party, is necessary if one hopes to mount a serious and sustained effort against organized crime.

It was out of experiences like mine in Philadelphia that the need was recognized and the strike force concept evolved.

In the 1980's when I once again became involved in the anti-organized crime effort (as Inspector General of the U.S. Department of Labor and as a member of the President's Commission on Organized Crime), I was astonished at how much progress had been made. Top leaders of almost all the major Cosa nostra families were in jail, on trial or under indictment. Back in the 1960's this seemed an almost impossible goal.

From this I draw one key lesson. The continuous, sustained focus on investigation and prosecution of organized crime leadership, by experienced and professionally committed prosecutors and investigators, was the key. Obviously, new statutory authorities -- wiretap, eavesdrop, RICO, etc. -- were very important as well, but the presence of the experienced strike force prosecutors, able to exploit those new tools, was essential.

Many will say, "Look at the Southern District [N.Y.]. They succeeded without a strike force." I agree. The Southern District had the right formula -- professional and experienced prosecutors, sustained effort and political independence. If there are other judicial districts with the track record and assurance in the future of maintaining such a strong and effective effort, I would not oppose the proposed abolition of strike forces in such districts. I think the Attorney General should exercise some rational flexibility in determining where strike forces should be, their size, jurisdiction, etc.

But I don't think the core issues have really changed that much since I was a young and eager "pre-strike force" attorney 25 years ago. U.S. Attorneys come and go. Many won't, or can't, do the job strike forces do. If all the strike forces are abolished, as the Attorney General proposes, we will look back some years from now and say, "Gee. That was a dumb thing to do!"

THOMAS F. McBRIDE

Associate Dean Stanford Law School	1982 to the present
Faculty of Human Biology and Values, Technology and Society Programs Stanford University	1983 to the present
Member California Council on Mental Health	1986 to the present
Member President's Commission on Organized Crime	1983 to 1986
Inspector General U.S. Department of Labor Washington, D.C.	June 1981 to November 1982
Inspector General U.S. Department of Agriculture Washington, D.C.	October 1977 to January 1981
Director, Bureau of Enforcement Civil Aeronautics Board Washington, D.C.	October 1975 to October 1977
Associate Watergate Special Prosecutor Watergate Special Prosecution Force Washington, D.C.	May 1973 to October 1975

Also served as Trial Attorney in the Organized Crime Section of the Justice Department; as Assistant District Attorney in the New York County District Attorney's Office and as Peace Corps Director in Latin America.

Education
Undergraduate -- Attended University of Iowa
B.A. - English -- New York University (1952)
LL.B. - Law -- Columbia University Law School (1956)

Publications
Author of six Inspector General Reports to the Congress, 1979-1982, Task Force Report on Mental Health Issues and the State Correctional System, 1988, co-author Team Policing and numerous articles.

Personal
Born February 8, 1929, Elgin, Illinois. Married to Catherine H. Milton. Five children.

Other
Admitted to the practice of law in California, New York, the District of Columbia, and the U.S. Supreme Court.

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Tue Sep 5 [illegible] 1989

STATEMENT FOR THE RECORD

THE NEED FOR THE MERGER OF THE ORGANIZED CRIME STRIKE FORCES INTO THE OFFICES OF THE UNITED STATES ATTORNEYS

Prepared For:

COMMITTEE ON THE JUDICIARY
and
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
COMMITTEE ON GOVERNMENTAL AFFAIRS
of the
UNITED STATES SENATE

J. ALAN JOHNSON, ESQUIRE
FORMER UNITED STATES ATTORNEY
WESTERN DISTRICT OF PENNSYLVANIA

SEPTEMBER 5, 1989

I recently entered private practice in Pittsburgh, Pennsylvania, after serving for nearly eighteen years as a prosecutor in the local and federal criminal justice systems.

In 1971, I served as an Allegheny County Assistant District Attorney. I became a Special Attorney with the Organized Crime and Racketeering Section, United States Department of Justice in 1975. In 1976, I became an Assistant United States Attorney for the Western District of Pennsylvania, then First Assistant United States Attorney. In July, 1981, I was appointed by the Court to serve as United States Attorney and served as the Presidentially appointed United States Attorney for the Western District of Pennsylvania for nearly seven and a half years.

Over the period of time that I served as a prosecutor, I had the opportunity to be involved firsthand in the interplay between various law enforcement agencies.

Most prosecutors will tell you that jurisdictional disputes within the law enforcement community are time consuming; often result in fragmented as opposed to unified enforcement and adversely effect short and long term communication.

When such disputes arise, which is not infrequent, investigations can be frustrated, prosecutions slowed and valuable opportunities lost.

The Federal Government must set the example in unified law enforcement. Great strides have been made over the past eight years, due in large part to Law Enforcement Coordinating Committees (L.E.C.C.), presided over by the United States Attorney in each federal judicial district. The L.E.C.C. concept has resulted in consolidating the resources of city, county, state and federal investigative agencies toward common goals, and the many successes of this concept speak for themselves.

The success of the L.E.C.C., can, in no small part, be attributed to the United States Attorney's leadership, high visibility, authority and accountability within his or her respective district.

Hearings presently underway to examine whether Organized Crime Strike Forces should be merged into United States Attorneys' Offices follow studies and reports in 1970, 1974 and 1987, each recommending merger.

It has been my experience that strike force attorneys along with the Section Chief of the Organized Crime & Racketeering Section are very competent, capable and helpful. Strike Forces should obviously continue to specialize in investigating and vigorously prosecuting organized crime. The issue however, is how to improve the federal law enforcement initiative against "organized crime," as it has evolved over the past two decades. "Organized Crime" is no longer confined simply to La Cosa Nostra

(LCN). Narcotics have spawned new, violent, broad based organizations that reach into metropolitan as well as rural areas. Jamaican and Colombian trafficers, well organized outlaw motorcycle gangs, street gangs and many other like organizations have brought new meaning to the term "organized crime" in today's society and their enormous profits are being invested in legitimate business.

Arguments that United States Attorneys' Offices are unable or unwilling to vigorously pursue such organizations, ignores the significant successes achieved by United States Attorney's Organized Crime Drug Enforcement Task Forces (OCDETF), in a relatively short period of time.

There can be little doubt that the successes of the OCDETF program have resulted because of the pool of expertise within each United States Attorney's Office. Assistant United States Attorneys with expertise in the prosecution of complex white collar crime, criminal tax fraud, money laundering, forfeiture and collections, have contributed significantly to OCDETF's impressive successes. Simply stated, a team approach.

It is time to unify federal efforts against all forms of "organized crime." Resources devoted to prosecuting the LCN, foreign drug cartels, emerging domestic organizations, and other non-LCN organizations, are not unlimited. To be most effective one person must be primarily responsible and accountable in each federal district. That person should be the person confirmed by the Senate and appointed by the President - the United States Attorney.

Strike Force Units should continue to have dedicated separately funded resources, at least equal to those transferred from existing strike forces.

Oversight by the Department of Justice through the Organized Crime Council and case review by the Organized Crime and Racketeering Section will assure the needed national initiative, focus and control.

Location of Strike Force Units within United States Attorneys' Offices will encourage cooperation and intelligence sharing.

The Strike Force Chief will become a strong and indispensable member of the United States Attorney's management team. Working more closely to unify prosecutorial resources against all forms of "organized crime" that have evolved within the past twenty years.

Accordingly, I encourage the Committees to adopt the Attorney General's proposal for merger under the guidelines he has advanced.

JIM MOODY
WISCONSIN

COMMITTEE ON
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September 6, 1989

Senator Joseph R. Biden, Jr.
Chairman, Committee on the Judiciary
United States Senate
Washington, D.C. 20510-6275

Dear Mr. Chairman:

I wanted very much to testify at your committee's September 8, 1989 hearing regarding the Justice Department's proposal to merge the Organized Crime Strike Forces into the U.S. Attorney's Offices. I object strongly to this proposal on economic and policy grounds.

Unfortunately, I must be in my District on September 8th. Accordingly, I enclose my written testimony for your Committee's consideration. I would ask that you please enter my testimony into the record during your September 8th hearing. Thank you for your assistance with this matter.

Warmest personal regards.

Sincerely,

Jim Moody

Jim Moody
Member of Congress

enclosure

cc: Senator Edward M. Kennedy
Senator Herbert Kohl
Senator Sam Nunn
Senator Paul Simon

STATEMENT OF

HON. JIM MOODY
OF WISCONSIN

BEFORE THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

REGARDING THE
PROPOSED MERGER OF THE ORGANIZED CRIME STRIKE FORCES
INTO THE UNITED STATES ATTORNEY'S OFFICES

SEPTEMBER 8, 1989

I would like to thank Senator Biden and the other members of the Senate Committee on the Judiciary for providing me with the opportunity today to express my strong objections to the Justice Department's proposed merger of the Organized Crime Strike Forces into the United States Attorney's Offices. I had hoped to be here today to testify in person against this proposal. Unfortunately, a previous commitment in Wisconsin prevents me from doing so.

Since my days as a Wisconsin legislator, I have had a deep interest in law enforcement's ability to attack organized crime. Like most Wisconsin citizens, I followed with concern reports of organized crime activity in Milwaukee, specifically allegations that the Balistrieri family of Milwaukee was part of organized crime. Indeed, as a Wisconsin State Senator I co-sponsored the Wisconsin RICO statute. I recall those days when Milwaukee's Police Chief continued to deny the presence of organized crime in the Milwaukee area, even though from the 1970s on, there were numerous indications pointing to a connection between the Balistrieris and Chicago's organized crime bosses. Fortunately, in 1984 the Chicago Organized Crime Strike Force was responsible for virtually dismantling organized crime in the Milwaukee area.

The investigation and prosecution of organized crime in Milwaukee was a long-term, specialized, painstaking, and ultimately successful undertaking. That investigation, conducted by the Chicago Strike Force, began in 1978. It was part of a broad investigation involving Chicago, Kansas City and New York. The ultimate prosecution in Kansas City of essentially the entire leadership of the Chicago, Kansas City and Milwaukee organized crime families for hidden ownership of and skimming from Las Vegas casinos, and the corrupt misuse of the Teamsters' Central States Pension Fund took more than eight years. The Strike Force investigation included grand jury proceedings, wiretaps, and other investigative techniques in Milwaukee, Chicago, Kansas City, Cleveland and Las Vegas. All components of the investigation were coordinated nationally by the Organized Crime Racketeering Section in Washington.

In my judgment, this project was successful because it was organized and implemented by an office staffed with a unique combination of experienced, motivated, career prosecutors who were able to conduct protracted and highly complex investigations in multiple jusidictions. In Milwaukee the Balistrieri prosecution was not a one shot case developed through traditional methods by a U.S. Attorney's office; it happened because of the unique organization of the Strike Forces and their connection with the Organized Crime Section in Washington.

The Chicago Organized Crime Strike Force attorneys coordinated the Milwaukee end of the investigation with Strike Force attorneys and FBI agents in several jurisdictions, travelling to Milwaukee to conduct grand jury investigations when necessary. When more on-site manpower was needed for the investigation, the Chicago Strike Force opened a field office in Milwaukee which remained open for six years during the investigations and successful prosecutions of the Balistrieri family and other related cases. Only then was the field office closed. Today, however, the Chicago Strike Force is ready and able to step in if and when organized crime were to reemerge in Milwaukee. If the Organized Crime Strike Forces were relegated to units within the U.S. Attorney's offices, coordination would then be required between at least two separate U.S. Attorney's offices. This would surely produce bureaucratic infighting between offices for rights to the "hot" cases.

For twenty years the Chicago Strike Force has handled investigations in which organized crime figures in Milwaukee and the Northern District of Indiana are answerable to the Chicago bosses. Those organized crime families are subservient to the Chicago crime bosses. Under the Attorney General's merger proposal, Organized Crime Strike Force units in the Nation's largest cities will be merged with the U.S. Attorney's office in that city. For example, Chicago's Strike Force will be merged into the U.S. Attorney's office in Chicago. However, major cities like Milwaukee, which does not have its own Strike Force unit will no longer benefit from the services and expertise of the Chicago Strike Force. Instead, organized crime cases in Milwaukee will be handled by a prosecutor sent from Washington to the Milwaukee U.S.

Attorney's office. Under the merger proposal, the Chicago Strike Force, as part of the U.S. Attorney's office in Chicago, will no longer have jurisdiction to handle cases in Milwaukee or, for that matter, organized crime cases in Kansas City, Indianapolis or Des Moines. All such cases will be prosecuted by an attorney from Washington assigned to a pool to be dispatched when and where needed.

The suggestion that a prosecutor, unfamiliar with the local organized crime scene, can be sent to Milwaukee from Washington, D.C. and gain the confidence of local law enforcement agencies is naive. Such a scenario would, at best, effectively grant a grace perio, and more likely, a pass to organized crime organizations.

Organized Crime Strike Force attorneys are career prosecutors with only one focus: investigating and prosecuting organized crime. They have an institiutional memory and they know the players. They are not reassigned to look into alleged abuses at H.U.D., the Pentagon, local government or the banking industry, for example, unless the alleged abuse involves organized crime activities. Furthermore, Strike Force Attorneys-in-Charge are not political appointees, nor is the leadership of the Organized Crime and Racketeering Section in Washington.

United States Attorney's are short-term political appointees, with varying experience, competence, commitment and agendas. Their assistants tend to be short-term prosecutors, assigned to a myriad of cases, who leave after a few years of service to pursue other professional goals. Cities like Milwaukee which have had organized crime elements should not be subjected to the momentary impulses of a particular U.S. Attorney with a rotating staff.

I believe strongly that the merger of Strike Forces into the U.S. Attorney's offices will weaken this nation's effectiveness in fighting organized crime in two ways. First, the proposed merger will weaken our effectiveness in a very practical way. Currently, the Strike Forces represent an identifiable structure devoted to solving a national problem. Professional law enforcement investigators from the various federal and local agencies trust and are willing to work with career prosecutors. Second, the proposed merger will weaken our effectiveness in a more symbolic way. Abolishing the highly visible, effective and independent Strike Forces will send a message to the nation and organized crime bosses alike that we are not committed fully to the fight against organized crime so as to give the problem a distinct and highly focused priority.

Finally, as an economist by training, I cannot agree with the Attorney General's argument that the merger will save taxpayer dollars. Any plan to send a cadre of Washington based experts into the field will only increase costs. The "merged" prosecutors will still need office space, supplies and other support staff services. Any profesed savings will be marginal at best. In fact, attorneys presently in the various U.S. Attorney's offices are on a different and higher pay scale than Strike Force attorneys. Bringing Strike Force attorneys' pay up to the level enjoyed by Assistant U.S. Attorneys will effectively eliminate any imagined cost savings or create a dual salary structure that will hurt morale.

To conclude, the Attorney General's proposed merger is seriously flawed on economic and policy grounds. The proposed merger will not save money; it will not result in more efficient and effective prosecution of organized crime cases. We are all too familiar with the current drug-related crime spree which plagues the entire nation. We kid ourselves if we think the only criminal organizations involved are all in Columbia or Panama. Organized crime here in the U.S. is necessarily part of this larger societal problem. Tinkering with the present Organized Crime Strike Force structure sends the wrong message to the organized crime community at the wrong time.

The last thing Milwaukee and other communities need is a return to the old pre-Strike Force days in which an attorney from Washngton is sent to the field who knows nothing about the local problems and who will disappear as soon as possible. I urge respectfully that this Committee reject the Attorney General's merger proposal.

Thank you.

September 7, 1989

Mr. Robert Bartley
Editor - Editorial Page
c/o Letters to the Editor
200 Liberty Street
New York, New York 10007

Dear Mr. Bartley:

I was appointed by President Reagan in 1981 to be a U.S. Attorney in my home state of Georgia where I served through 1986. Most recently I spent a tour of duty in Washington, D.C. with the Department of Justice for three years in several policy level positions. As a result of this experience, my observations on the utility of merging the strike forces into the 93 U.S. Attorneys Offices run counter to the comments of Eugene Methvin, a respected writer on organized crime issues with Readers Digest, that recently appeared in the Wall Street Journal (July 17, 1989).

I am pragmatic enough to adopt the essence of Eugene Methvin's "if it ain't broke, don't fix it" premise in his argument against merger, but the last eight years exposure to fighting crime at the Federal level tell me that merger or consolidation of our prosecution efforts against the organized criminal elements in this country cannot afford to be delayed many more months or years until the merits of consolidation can be studied ad infinitum. Consultation with and discussion of this proposal with Congress is certainly in order, and this has been done particularly with key Senators and staffers in the U.S.

Senate. In this regard I can attest to the desire on the part of Attorney General Thornburgh to answer questions and deal with public and congressional concern on the merger issue.

In his many positions in state (two terms as governor of Pennsylvania) and federal government, Attorney General Dick Thornburgh has acquired an appreciation for the role of legislature in the monitoring of Executive Branch matters. As a result, a byword of his management style is "no surprises," which translates into accountability. Accountability is what Congress and the public can expect from Dick Thornburgh's Department of Justice team.

The 93 U.S. Attorneys are accountable to the Attorney General as the individuals to lead Federal prosecution efforts in the 50 states. Selected by the President, each of them must pass muster with the U.S. Senate through the confirmation process, the rigors of which have been beamed by television into every nook and cranny of this country. At present, U.S. Attorneys are in de facto control of all prosecutions including strike force cases in their districts as a result of steps taken by the Attorney General in 1987. The final step suggested by General Thornburgh will save the Justice Department from the inefficiency of two libraries and redundant data processing equipment, together with separate offices within a few floors or a few blocks of one another in some of our major cities.

More important than machines and office space, consolidation would achieve the last step in true accountability in the U.S. Attorneys for supervising virtually all the field prosecution resources directed at organized crime in this country. By sheer weight of numbers, consolidation makes sense. At present over 2,000 career Assistant U.S. Attorneys under the direct supervision of U.S. Attorneys are charged with criminal prosecution responsibilities as compared to approximately 150 with the strike forces assigned to such matters. Over the last 20 plus years since the creation of the strike forces there has been a near quadrupling in the resources under the supervision of U.S. Attorneys; whereas, the increases in the strike force manpower have been incremental by comparison.

Virtually all cases of any significance brought to federal court for criminal prosecution are initiated and tried by attorneys under the supervision of U.S. Attorneys. Most of the resources in the Department's Criminal Division, with the exception of strike forces, have as their primary mission the task of supporting the litigation of U.S. Attorneys. These include the Narcotic and Dangerous Drug Section, Fraud Section, Public Integrity Section, General Litigation and Legal Advice Section and Asset Forfeiture Office. None of these offices litigate on their own anywhere the diversity or number of cases pursued by U.S. Attorneys. Therefore, the strike forces remain as an outpost of an era when the prosecution function of U.S. Attorneys was segregated from Washington, D.C. resources. The reasons for this division no longer obtain today when an organized crime case could easily cross over into crimes such as procurement fraud, bank fraud or narcotics trafficking, again all areas where greater expertise resides with U.S. Attorney resources.

On examination the Thornburgh plan has innumerable safeguards to insure the continuance of major organized crime investigations and prosecutions. Among these is the retention of substantial Washington, D. C. oversight by the Organized Crime and Racketeering Section of the Department's Criminal Division in the case approval process. Therefore, the proposal creates the kind of accountability needed to keep not only the Attorney General, but Congress and the American public assured that the gains made in the war against the mob will be lasting and fought in the future with both hands.

So in the final analysis, I say let's give the Attorney General the opportunity to execute the law in a more efficient manner. Assuredly, we must keep pace today with the literal changing face of organized criminal activity in this country or be prepared for the consequences tomorrow should we fail to do so. Attorney General Thornburgh should be permitted to lead his troops in the logical manner called for by his merger proposal.

Sincerely,

Joe D. Whitley

Joe D. Whitley

JDW/kh

STATEMENT OF BARBARA S. JONES, FIRST ASSISTANT DISTRICT ATTORNEY, NEW YORK COUNTY, TO THE UNITED STATES SENATE COMMITTEE ON THE JUDICIARY, SEPTEMBER 8, 1989

I have a unique vantage point from which to comment upon the Attorney General's proposal to merge the Organized Crime Strike Forces into the United States Attorneys' Offices. I have spent most of my professional life in the Strike Force -- first in an independent office and then in a "merged" office. From October 1973 to December 1976, I was in the Manhattan Organized Strike Force, which was then independent of the United States Attorney's Office for the Southern District of New York. In December 1976, the office was merged into the United States Attorney's Office. For the next ten years, I worked almost exclusively in the Strike Force Unit, serving as its Chief from November 1984 until March 1987. From that perspective, let me make these points:

1. I initially resented the merger, as do prosecutors in those offices which the Attorney General's plan would affect. Our independent office, then under the supervision of William I. Aronwald, had tremendous espirit, and our accomplishments were considerable. With the merger, many of my colleagues decided to leave -- some for other Strike Forces, some to private practice. I am glad I chose to remain because the consolidation, in my opinion, was an unqualified success.

2. Those opposed to consolidation argue that between 1977 and 1983, when Rudolph Giuliani became United States Attorney, the new unit made no signficant prosecutions and "failed to make effective use of prosecutorial tools such as the RICO statute." This claim is simply untrue. It does a serious disservice to Robert Fiske and John Martin, who proceeded Mr. Giuliani. Between 1977 and 1983, the unit prosecuted Anthony Scotto, Michael Clemente, Frank "Funzi" Tieri, Anthony "Tony Pro" Provenzano, Russell Buffalino, Joseph Gambino, Anthony "Fat Tony" Salerno, Mario Gigante, and numerous other crime figures, including those who corrupted the Fulton Fish Market and the waterfront. The Tieri prosecution in 1980 was the first time that RICO was used in the Northeast to charge an organized crime family as an enterprise. It sparked the FBI to embark on a strategy of targeting each of the five LCN families in New York for racketeering indictments.

3. Nor can Messrs. Fiske and Martin be criticized for failing to support the Strike Force Unit. Mr. Fiske personally tried the Scotto case, and Mr. Martin worked closely on the investigation of the Bonanno family that resulted in the successful prosecution of two crews in United States v. Ruggiero. Moreover, prior to Mr. Giuliani's arrival, the unit had already commenced a series of major investigations which culminated in United States v. Castellano, et al; United States v. Ianniello, et al.; United States v. Salerno I (the "Commission case"); United States v. Salerno II (the "Genovese Family case"); United States v. Badalamenti, et al. ("Pizza case"); and United States v. Persico,

et al. (the Colombo Family case"). Mr. Giuliani deserves credit for seeing these cases through to conviction and for his creativity and determination. But the cases were in the "pipeline" before his arrival, and they exemplify the success of the unit under three United States Attorneys.

4. Consolidation into the United States Attorney's Office immeasurably strengthened our efforts. We were able to turn to the Civil Division to commence Civil RICO cases against the Concrete Workers Union (a direct outgrowth of the Colombo prosecution), the Teamsters Union (an outgrowth of the Genovese case) and the corporate entity that controls the Fishmarket. The unit's prosecutors were far too busy with criminal cases to handle these matters and lacked the familiarity with civil pleadings and practice to do them well. Similarly, as Unit Chief, I frequently turned to the most junior attorneys in the office to prosecute small "spin-off" cases from our major investigations. Witnesses who perjured themselves before organized crime grand juries became the first trial for several of our young assistants. We were also able to call on non-Unit lawyers to "second seat" unit members at trials, and on the appeals unit when tough legal issues arose. Simply put, doing it alone would have meant doing it not nearly as well.

5. In sum, consolidation has considerable advantages. It bears emphasis, however, that the success of prosecuting organized crime may well have less to do with our prosecutors than with our investigators. It was the FBI, after all, which promoted the strategy of pursuing organized crime families as racketeering enterprises. No matter what their talents, lawyers cannot make cases without wiretaps, undercover operations, informants, and cooperating witnesses. We were fortunate in the Southern District to have an abundance of investigative riches and an organizational structure that made the most of it. That structure -- an Organized Crime Strike Force Unit within a United States Attorney's Office sharing quarters with experienced investigators -- is one that can work across the country.

STATEMENT OF WILLIAM N. OUSELEY
JOINT SENATE HEARINGS
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
AND
JUDICIAL COMMITTEE
September 8, 1989

Re: Hearings on the Status of the Field Offices of the Organized Crime and Racketeering Section, Criminal Division, United States Department of Justice (Strike Forces)

Distinguished Senators, I was requested to present my views concerning the proposal by Attorney General Richard Thornberg, to merge the Strike Force Offices into the United States Attorney's Offices throughout the country. I am sorry that prior commitments prevent me from appearing in person, however, I am pleased to submit this statement of my views for your consideration.

By way of background, I retired from the Federal Bureau of Investigation in September, 1985, after 25 years of service. At the time of my retirement I was a Supervisory Special Agent in charge of the Organized Crime program in the Kansas City FBI Field Division, and had served in that capacity for some 4½ years. The vast majority of my career, some 22 years,was devoted to the investigation of organized crime cases while assigned to Kansas City. Although I may not have been one of the Agents assigned to the FBI's organized crime program at its inception in the late 1950s, following the infamous Apalachin gangland convention, I was not far behind. I feel I grew up with the program, and consider it a priviledge to have had the opportunity to devote my career to such a worthwhile effort. Certainly by reason of my long years of personal experience and dedication to this program I gained a high degree of expertise in the field of organized crime.

I also feel priviledged to have been called to testify before the Permanent Subcommittee on Investigations, chaired by Senator Nunn, in 1980, when hearings were held regarding organized crime violence.

Based on my experiences I support the retention of the Strike Force Offices, as they are currently constituted, separate and independent from the United States Attorneys Offices.

I believe the establishment of the Strike Forces around the country was in recognition of the threat organized crime syndicates posed to this nation and the extraordinary problems this special form of crime presented to investigators and prosecutors. We can easily establish the existence of La Cosa Nostra, in my opinion the group that has brought the greatest degree of sophistication to this type of crime, by 1933, and know they actually have been a part of the American scene since the turn of the century. To effectively combat such criminal organizations the Federal effort must have the same continuity. longevity, perserverance, patience, expertise and long-range planning as they do. Prior to the formation of the Strike Forces in the 1970s the Government's efforts possessed none of these qualities. However, I must point out the FBI had taken steps in this direction by mandating special Organized Crime Squads be formed in those cities having a recognized organized crime problem. As mentioned previously, such squads were being formed in the late 1950s. Thus, on the investigative side, the needed continuity, expertise and long-range commitment was established. For those who might question this, I point to my own situation, 22 years of continuous service on an organized crime squad in one city. I would add, I was not unique, as a cadre of FBI Agents developed in various offices whose exclusive domain was the investigation of mob activities. In fact there grew a special feeling, a camaraderie and pride amongst us working in this field. It was a commodity that I now recognize played a great part in the successes that came much later.

With the formation of the Strike Forces, centrally supervised, staffed by non-political career prosecutors, dedicated exclusively to organized crime cases, with a long-term commitment, the chemistry was there for what turned out to be an incredibly successful assault on traditional and other forms of organized crime. As I saw it, there was now a prosecutive arm of the Government that matched in concept and spirit the FBI's organized crime program.

From the viewpoint of the Federal investigator involved in this type of work there are enormous barriers in having to work with prosecutors who lack the interest, motivation and requisite knowledge of the strategies, operations and thinking processes of syndicate criminals, and in many cases are not adequately familiar with the complex criminal statutes aimed at organized crime activity; prosecutors who are not allowed the luxury of long-term planning for complicated investigations and prosecutions that may take years to bear fruit. Despite what some might say, the organized crime case is altogether different than a bank robbery or kidnapping case. This is not meant as a knock on the abilities or dedication of prosecutors in the United States Attorneys offices, but simply a statement of the way it is. These prosecutors are working in an office directed by a political appointee whose term in office is limited, and whose priorities, fields of interest and broad responsibilities dictate against any concentration of personnel and effort in the organized crime field.

Additionally, there can be no real level of confidence built when dealing with prosecutors who are here today and gone tomorrow, often ending up representing the very same people we had been investigating and attempting to prosecute. How could I feel comfortable discussing sensitive informant issues, investigative techniques and strategies, and intelligence matters with such a person.

Our experience in Kansas City was the independent Strike Force concept overcame these and other barriers. A marriage was formed of like-minded investigators and prosecutors who were in it for the long run. A mutual respect and trust developed,and our daily endeavors were linked together in a spirit of teamwork.

Kansas City was indeed fortunate in that the first Strike Force Chief was Michael DeFeo, a career Department of Justice prosecutor, whose vast knowledge of the organized crime element and prosecutorial expertise were widely recognized. Here was a person able to make positive contributions to the program from the first day in the job. Those who followed Mr. DeFeo upheld his high standards of conduct, dedication and professionalism. I would especially like to recognize the contributions of former Kansas City Strike Force Chief David B. B. Helfrey, with whom I worked closely for over ten years. The DeFeos, Helfreys, and others like them assigned to Strike Forces around the country, were not passive players, sitting back awaiting someone to bring them a case. They were, and are, proactive partners with law enforcement personnel on the Federal, State and local levels. Of the myriad of benefits resulting from the Strike Force concept, that fact is one that stands out in my mind. They have provided an added dimension to the Government's effort in this field by expanding the horizons of investigations and prosecutions.

The independent Strike Force concept has worked for a number of reasons. The quality of person recruited by the Department of Justice to serve on Strike Forces. Centralization of supervision which allows for a coordinated national effort, and provides an avenue to prevent or minimize the jurisdictional disputes that arise. I would be fooling no one if I tried to tell you that it has all been wine and roses, everyone working in complete harmony. That, in my estimation, will never be the case. But at least when dealing with Strike Forces there are avenues open and procedures available to deal with such problems as they arise.

Additionally, Strike Force attorneys need not be concerned with short-term results, changes in administration, changing priorities, frequent changes in supervisory personnel and lack of support. Instead there is the time, direction and motivation to become as knowledgable about the subject matter at hand as the investigators, such as myself, who may have worked in the field for years. As a result they proved themselves and won the trust of law enforcement. I found that just as those of us in the FBI working the organized crime program developed a camaraderie, that same feeling permeated the Strike Force, and soon we together, the FBI and the Strike Force, developed our own espirit de corpse.

As the old saying goes, the proof is in the pudding, and the Kansas City experience certainly bears that out. A listing of the accomplishments achieved in organized crime cases in Kansas City is truly impressive, and I believe is recognized around the country. Having been a part of the scene for some 22 years, I can assure you the results I refer to have dramatically altered the impact of organized crime on that community. The strong, lasting partnership that grew between the Strike Force, the FBI, and other law enforcement agencies, I believe, is solely responsible for such successes.

Certianly the highlight of any discussion regarding the heights that can be reached is the investigation and prosecution of the case codenamed "STRAWMAN". There is absolutely no question in my mind, or anyone else familiar with organized crime matters, this success would never have been achieved were it not for that partnership between the FBI and Strike Force.

"STRAWMAN" was a case having its origins in the investigation of gangland violence and eventually spread to mob infiltration of Las Vegas hotel/casinos and the control members of La Cosa Nostra in Kansas City, Chicago, Milwaukee and Cleveland exerted over the International Brotherhood of Teamsters. The results in terms of La Cosa Nostra bosses and top level people prosecuted and in terms of impact was monumental.

In the first place this case would never have come about without a prosecutive unit such as the Strike Force in that from start to finish it took more than eight years. The complexity of the case makes a brief summary of it almost impossible. During this investigation and prosecution every available technique was employed, with court authorized electronic surveillance alone extending over some 18 months. Complex investigative and legal problems were a constant, as was the need of coordinating investigative and prosecutive interests, that were often in conflict, in various cities around the country. Continuity of Agent and prosecutive personnel, having organized crime expertise and experience, was mandatory. The ingenuity, skills, endurance and patience of investigators and prosecutors was pushed to the limits. Suffice it to say, were it not for the fact FBI Agents and Strike Force prosecutors in Kansas City, which became the hub for this case, had developed such a high degree of trust, confidence and mutual respect, many of the problems could have proven fatal. Similarly, if it had not been for dedicated, experienced managers in FBI Headquarters and the Organized Crime and Racketeering Section of the Department of Justice, many of the conflicting interests that develop in a case of this magnitude could have been fatal.

Once again let me stress my remarks are not meant to demean in any way the Office of the United States Attorney. Having dealt with both systems, I am simply pointing out those attributes required for a successful Government effort against organized crime, and they are not present in the United States Attorney's office. I understand that the functions of the United States Attorneys Office are such that it is difficult, if not impossible, to deal with a program that involves long-term cases that can take more than eight years. Simply stated a separate structure is necessary to combat criminal enterprises such as La Cosa Nostra and other organized crime groups.

Lastly, I feel strongly that if, as proposed by the Attorney General, the Strike Force units are assimilated into the United States Attorney's Office, they will not survive. Their separate identity, continuity of personnel, and organizational strengths will disappear. With today's ever-changing priorities, political pressures, increased case load and expanding responsibilities, it is highly unlikely any group of attorneys will be allowed to maintain a separate identity, devoting their time exclusively to organized crime matters, no matter how good intentions may be to do so are. Who is there to insure that a United States Attorney does not completely abolish the unit once in his office, if not immediately, then gradually.

Once the career attorneys now with the Strike Force lose their identity as their units are disbanded, the very identity that has produced such a strong espirit de corpse and sense of mission, how many will stay on. And for those who remain, how many will be allowed to continue work in the organized crime field and how many may find it more advantageous or challenging to rotate to those high profile areas in an office where organized crime is not considered to have any priority. The result, a loss of valuable institutional knowledge, expertise and the partnership with investigative Agents, built up over these many years. The only benefactors in this case will be the mobsters.

As I see it, the independent Strike Force concept is a Government program that has worked as it has most effectively addressed a documented need. We must face the fact there are forms of crime that due to their nature and makeup defy the traditional criminal justice systems in place and require a separate structure. Organized Crime is representative of this concept, and the Strike Force theory not only filled the void, but proved beyond a doubt it was the right response. Today drugs represent a severe and dangerous criminal threat to society. It does not appear the Drug Enforcement Task Forces within United States Attorney's Offices, designed to combat this problem, have been very successful. I would guess one reason is those attributes I have documented that made the Organized Crime Strike Forces so successful are lacking. I would submit that drugs, which, in my opinion, is a form of organized crime, requires a separate structure to combat it. If anything I would like to see those in aposition of power, rather than looking for a way to disband the Strike Forces, recognize their strengths and find new ways to utilize them.

STATEMENT BY CHARLES W. BLAU
DAVIS, MEADOWS, OWENS, COLLIER & ZACHRY
DALLAS, TEXAS

Mr. Chairman and members of the Committee, I am Charles W. Blau, a practicing attorney, from Dallas, Texas. I am chiefly engaged in the defense of so-called "white collar" criminal cases, principally in the money laundering, bank fraud and criminal income tax area. I am pleased to appear today before the Senate Permanent Subcommittee on Investigations to discuss the Administration's proposal to reorganize the Department of Justice Organized Crime Strike Forces ("Strike Forces").

My remarks at this hearing will focus both on my experiences as Chief of the Organized Crime Drug Enforcement Task Force ("OCDE Task Force") program in Washington, D.C. under Deputy Attorney D. Lowell Jensen and Associate Attorney General Stephen S. Trott and on whether that model might be successfully used to reorganize the Strike Forces. I believe I can offer a unique point of view, having served federally as an Assistant United States Attorney in two judicial districts, as Chief of the Money Laundering Task Force in Miami, Florida, as Chief of the Narcotics and Dangerous Drug Section for the Department of Justice, and as Deputy Associate and Associate Deputy Attorney General for

Messrs. Jensen and Trott. I offer a viewpoint of a career prosecutor, a trial attorney, and an administrative policy maker with the Department of Justice for fifteen years. My remarks today will address the OCDE Task Force, its organization and development and its similarities and dissimilarities to the government's proposed model for the Organized Crime Strike Forces. I would also like to address the issue of whether the Organized Crime Strike Forces should be merged within the various United States Attorneys' Offices throughout the United States.

I. INTRODUCTION.

A. The Organized Crime Drug Enforcement Task Force Program.

On October, 14, 1982, President Ronald Reagan unveiled an extensive eight-point program to attack drug trafficking and organized crime. The heart of this initiative was the OCDE Task Force Program. The Task Force was comprised of a network of regionally based, multi-agency task forces staffed from a broad spectrum of federal, state and local agencies. The Justice Department set forth a number of goals that were used to design the OCDE Task Force. These goals included:

1. A program national in scope in order to respond to nationwide drug trafficking and major organizations engaged in the elicit drug business. Localized enforcement programs were viewed as inadequate because of the extended scope of criminal organizations active in the drug trade.

2. Task Force operational decision making based on a consensus model. Participating agencies would conduct their affairs on the basis of disparate methods of operation in accordance with their institutional approaches, philosophies and types of expertise.

3. A Task Force program created from existing agencies, and participants were to retain their organizational identities; the program was specifically designed not to create a new bureaucracy. These new task forces would not become "super agencies" with the accompanying potential for infringement upon citizens' rights. Participating agencies would operate under their own tested and proven methods and guidelines.

4. A Task Force program specifically designed to be decentralized. It was reasoned that this design would permit the widest possible flexibility in dealing with problems on a region by region basis and would permit a much broader use of assets sensitive to local drug issues.

5. A program which envisioned use of a long-term investigative approach to high level targets, and designed for quick upstart due to the urgency of the drug trafficking problem.

These guiding principles provided the framework for the creation of the OCDE Task Force program. The program originally consisted of twelve regions, with Florida being added in 1985 as the thirteenth. The program covered the entire country and included participants from various United States Attorneys' offices, the Drug Enforcement Administration, the Federal Bureau of Investigation, United States Customs Service, the Bureau of Alcohol, Tobacco and Firearms, the Internal Revenue Service, the United States Coast Guard, and the United States Marshal's Service. Initial resource allocations provided for some 1,019 investigative agents and 200 prosecuting attorneys, clerical and technical assistants, special start-up funds and additional money for operational use. The overall organizational plans and operational policies were set forth in "Guidelines for the Organized Crime Drug Enforcement Task Force", framed by senior representatives of the participating agencies and issued over the signature of the Attorney General.

B. The Guidelines.

The guidelines for the OCDE Task Force sets forth the program goals of the operation. The guidelines included:

1. To target, investigate and prosecute individuals who organize, direct, finance or otherwise engage in high level illegal drug trafficking enterprises, including large scale money laundering operations;

2. To promote a coordinated drug enforcement effort in each region and to encourage maximum cooperation among all drug enforcement agencies;

3. To work fully and effectively with state and local law enforcement agencies; and

4. To make full use of financial investigative techniques, including tax law enforcement and forfeiture actions, to identify and convict high level traffickers, and to make all possible government seizures of assets and profits derived from high level drug trafficking.

C. Overall Supervision and Management of the Organized Crime Drug Task Force Program.

The guidelines further provided for national oversight of the OCDE Task Force program by a number of groups composed of representatives of various federal departments and agencies. This oversight was, as a rule, advisory in nature and provided policy direction only. Occasionally, the Washington group would provide high level dispute resolution for disagreements between judicial districts or between federal investigative agencies. The Task Force oversight groups included:

1. Cabinet Counsel on Legal Policy/National Drug Enforcement Policy Board. The senior oversight group originally was the Cabinet Counsel on Legal Policy, chaired by the Attorney General. It was later abolished and replaced by the National Drug Enforcement

Policy Board in January, 1985 and was chaired by the Attorney General. The Policy Board had responsibility for national policy formation and interagency coordination and cooperation. It dealt only occasionally with the day to day details of OCDE Task Force operations.

2. The Working Group on Drug Supply Reductions. The principal policy making oversight group for the OCDE Task Force program was the Working Group on Drug Supply Reduction. It was chaired by the Associate Attorney General and included various heads of the working agencies involved in the Task Force organization. The working group provided direct supervision and guidance for the OCDE Task Force program nationally. Its principal role was to articulate policy and to coordinate the development and maintenance of the program. It also provided a forum to resolve interagency disagreements which could not be settled at a lower level.

3. Washington Representative Group. The Washington area representatives' group provided routine staff assistance to the Associate

Attorney General and heads of member agencies. I chaired this particular group on a monthly basis. The principal role of the representatives' group was to solve field problems that arose between various U.S. Attorneys' offices and between investigative agencies. Most of the drug task force problems were resolved within this group. My diplomatic skills were greatly improved as a result of this experience.

D. Drug Task Force Field Operations.

The design of the Task Force program resulted in thirteen major cities throughout the United States being designated core cities. Each agency was required to designate a coordinator to be co-housed in the particular region and the coordinators were responsible for the day to day operation of the Task Force program on a local level. The core city United States Attorney had no line authority over other U.S. Attorneys and their staff, or over personnel of investigative agencies, but was directly responsible for the emphasis placed on Task Force activities within the entire region. Strong, active U.S. Attorneys were instrumental in seeing that the Drug Task Force in the region ran well. Additionally, each Task Force region had a Task Force advisory commission composed of all the United States' Attorneys, the Assistant U.S. Attorney Task Force Coordinator, the agency Task Force coordinators and senior representatives from state and local investigative agencies throughout the regions. If Strike Forces existed within the particular region, the Organized Strike Forces Chief was included in this group. The purpose of this advisory group was to coordinate drug enforcement planning within each region of the country.

E. Success/Weakness of the Organized Crime Drug Task Force.

The largest management problem within the Department of Justice is the ability of the Department to coordinate complex investigations of interstate and international criminal organizations. The OCDE Task Force and the Strike Forces offer different models to overcome this management problem.

The OCDE Task Force management model is one of required regional cooperation within voluntary guidelines. The Strike Force model is one of centralized authority to manage cases within mandatory guidelines.

When implemented, the OCDE Task Force advisory structure did indeed create a successful national program. Investigations against central drug figures were better coordinated and better staffed through the Task Force program. Since the program's inception, Congress has received a number of reports which outline its successes and failures.

The major weakness of the program stemmed from the lack of central authority in one body to effectively resolve the problems and sweep away the administrative hurdles inherent in any interagency program. The oversight groups in Washington were created in part to deal with the need to coordinate interagency investigations. The decentralized model of the OCDE Task Force met the various needs of the United States Attorneys around the country, but it was an open question as to whether the program was truly a national task force. The direction from Washington was primarily to set policy and to resolve disputes when resolution could not be achieved at a local level.

The effectiveness of the OCDE Task Force program depended entirely upon the effectiveness of the various U.S. Attorneys, the Assistant U.S. Attorneys, and the agency representatives chosen as coordinators in this program. The program provided extensive interagency and interregional cooperation in conducting drug cases and provided an excellent forum for resolving interagency disputes which periodically occur in national and international drug trafficking cases. There was, however, no single agency or individual at the local or the national level to make a task force decision. Decisions were reached by a consensus of the parties and common grounds for agreement were constantly sought. The consensus model required that agencies compromise and agree on Task Force matters. Most of the time all parties worked very well together. However, there were times when a compromise and agreement were very difficult to reach.

Approximately 50% to 60% of my duties in the OCDE Task Force program consisted of problem resolution. This job required fine tuning of diplomatic skills to suggest compromise, in certain cases, or to coerce parties into a resolution of particular issues in other cases. I believe a consensus model works best when there are highly motivated people who wish to compromise. However, the federal structure basically has created 94 mini-attorney generals in each judicial district who often look primarily to their own interests first and secondarily to the national interest. The bottom line weakness in the OCDE Task Force Program was, in my judgment, the lack of central decision making authority at a national level to enforce the policies of the Task Force and carry out its mission.

The Organized Crime Strike Forces, on the other hand, are extremely centralized and decision making is quite straight forward. While obviously there must be consensus reached between the Strike Force attorney and the various investigative agencies working a case, the process is much simpler and more direct in the Strike Force setting than the OCDE Task Force.

The fourteen Strike Forces are regional, and therefore cover a broader geographic area than U.S. Attorneys, who are limited to one judicial district. Coordination of cases is much easier for the Strike Forces because of their geographic structure and because the cases are principally worked by only one federal agency, the Federal Bureau of Investigation. Bureaucratic infighting between judicial districts is decreased because of the structure, although the investigative agencies will occasionally forum shop between a Strike Force and a U.S. Attorney's office. Disputes between regional Strike Forces are resolved by the Organized Crime Section in Washington, D.C. The command, control, and communication process used by the Organized Crime Section is good and provides for a clear decision making process. If there is a management problem with the Strike Forces, it is in the failure of some field office leadership to aggressively attack organized crime problems or to effectively cooperate with the FBI to successfully complete an investigation.

II. SHOULD THE ORGANIZED CRIME STRIKE FORCES BE MERGED WITHIN THE UNITED STATES ATTORNEYS OFFICE.

There are a number of reasons why the administration believes that the Organized Crime Strike Forces should be merged within the United States Attorney's offices. They believe that the merger would effectively increase the responsibilities of the United States Attorney as the chief law enforcement officer in each judicial district and end the problems associated with shared responsibilities. The administration believes that such a merger would be much more efficient and would eliminate a great deal of bureaucracy which is presently in place. The administration states further that the federal organized crime efforts would not be hindered, and cites the experience of the U.S. Attorney for the Southern District of New York as a very successful example of such an approach.

Generally, I believe that any Attorney General should have the right to structure the Department in the most effective manner as long as the national interest is served. I believe there is a considerable downside to the Strike Force merger. The destruction of the Strike Force program would be counter-productive in the battle to eliminate organized crime in this country and would signal a negative message that the national organized crime effort is being deemphasized, when I am sure the contrary is true. There are a number of specific reasons why I do not believe the Organized Crime Strike Forces should be merged into the United States Attorney's Office.

A. Politicalization of a Nonpolitical Process.

United States Attorneys are political appointees. They consider political sensitivities of the cases that are investigated and prosecuted within each judicial district. The political process does not disappear when a person takes the job of U.S. Attorney regardless of which party is in power. I have worked for both Democrat and Republican United States Attorneys and the process is basically the same. Therefore, each U.S. Attorney has every reason to amplify what he or she is doing as U.S. Attorney and in that process generate as much publicity as they possibly can regarding the cases that they bring. This is not to suggest a malevolent process but rather to state the reality of the office and how it functions. On the other hand, the Organized Crime Strike Forces are totally apolitical. Their sole function and purpose is to focus on organized crime "families" in the United States and to try "family" members who violate the law.

There is a danger that the local United States Attorney may therefore target organized crime figures which in reality are not organized crime figures. Experience with the OCDE situation has shown that U.S. Attorneys used Task Force resources to deal exclusively with local drug problems without regard to whether the target was part of a national or international drug operation. While the activity plays well in the local press, the process takes away vital resources from regional and national drug enforcement organizations.

Added to this politicalization issue is the quality of United States Attorneys in general. Each administration makes good and poor selections for the various U.S. Attorney positions. In the larger districts, the U.S. Attorneys generally are very capable lawyers and have a quantum of criminal law experience. This experience helps them make good administrative judgments concerning the criminal cases which are accepted and subsequently prosecuted. The U.S. Attorneys who are selected without having criminal legal backgrounds generally rely on career staff members in the office to make such judgments. Sometimes a United States Attorney's judgment is simply bad. It is a very difficult process, given the decentralized management of the Department of Justice, to reign in a U.S. Attorney who has made a poor judgment which conflicts with national policy. Rightly or wrongly, most view themselves as presidential appointees subject only to the control of the Attorney General and removal by the President of the United States. It is much easier to review and modify a decision of a Strike Force section chief than it is to correct an erroneous decision of a U.S. Attorney. If the administration prevails in its decision to merge the Strike Forces, the result will be a much more political process in the organized crime area.

B. Loss of National Policy On Organized Crime.

Under the present system, there are two important policy makers on organized crime in the United States. The policy for combating organized crime is the responsibility of the Organized Crime Section of the Department of Justice and the FBI. The FBI generally has the lead in determining what crime "families" and personages within those "families" should be targeted for investigation. The Organized Crime section, however, plays an important role in that process, and works on a day to day basis with the FBI in setting national policy in the organized crime area. The removal of the Strike Forces as an independent body would, by default, result in all long range policy making being done by the FBI. This would remove an important check and balance in the present law enforcement system. The FBI also will have to maintain a national organized crime policy in dealing with 94 U.S. Attorneys who might disagree with the importance of such a policy at the local level. The present national policy on organized crime would in effect be replaced by local policies dictated by the FBI and 94 U.S. Attorneys. One might argue that the FBI controls the government's organized crime policy today and they will continue that policy regardless of what happens to the Strike Forces. However, the Organized Crime Section plays an important role because of the prosecution resources dedicated to organized crime cases.

One of the severe limitations on the OCDE Task Force program was the lack of meaningful national policy dealing with the selection of targets. Case selection was left entirely to the investigative agencies within broad guidelines of the program. Disputes arose between districts over target selection or the quality of targeted matters. These disputes were constant irritants which required an enormous amount of time to resolve. The Organized Crime Section does not have the problem of case selection because of the centralized management of all organized crime investigations and prosecutions and because of their close day to day working relationship with the FBI. It is also possible that by deemphasizing organized crime on the national level and making it a local United States Attorney matter, funding for both the FBI and the Department of Justice in this sensitive area could be adversely impacted.

C. Loss of Experienced Organized Crime Prosecutors.

Another concern with a possible merger of the Stike Forces would be the loss of some of the most experienced organized crime prosecutors in the United States. In my judgment, the inevitable departure of Strike Forces attorneys into the private sector would result in the loss of a national resource, particularly in the RICO area. The Organized Crime Section prosecutors are among the most experienced prosecutors in the United States. Assistant U.S. Attorneys all over the country use the Section as a support function when trying complex cases. The Organized Crime Section controls the use of the RICO statute in all federal prosecutions. The Section has gained this control through its effective use of the RICO statute in the organized crime area. I found Stike Forces attorneys to be very competent as a whole and extremely knowledgeable in complex areas of the law. They are a very valuable resource in the Department of Justice.

Additionally, with the suggested merger of these prosecution assets within the ambit of the United States Attorneys, there would be little control over what cases these experienced prosecutors might be involved in. While the administration's proposal does require that the U.S. Attorneys use these prosecution resources only for organized crime work, the OCDE Task Force program had the identical requirements in their guidelines. These guidelines, however, were frequently violated. The OCDE Task Force program had a study conducted in 1984 by Aurora Associates of Washington, D.C. which showed that 20% to 30% of the OCDE Task Force prosecutors, who were being paid with Task Force funds, were not working on Drug Task Force cases. These resources were being diverted to other areas that the individual U.S. Attorney felt needed to be addressed locally. This diversion of vital resources from the Task Force effort was, in my view, counter-productive to the overall goals of the OCDE Task Force program and such a change in the organized crime area might result in experienced prosecutors not being effectively used by the U.S. Attorney. Organized crime cases are complex matters which mandate the use of highly trained professional attorneys to prosecute. Experienced attorneys would likely not be working on the highest quality national cases because of local pressure.

D. Loss of Central Decision Making.

Another area of grave concern with the administration's proposal is in the area of decision making. One of the criticisms of the existing Strike Force structure is the time that it takes to reach a prosecution decision and prosecute a case. Regional Strike Forces leadership has been lacking in this area. There is no question that the decision process to prosecute an organized crime case would be shortened if such process was at the U.S. Attorney level. On the other hand, the U.S. Attorney might not have the perspective of where the potential target fits into the national picture in the organized crime area or whether the prosecution of the particular case might impact on a matter in another part of the country. Additionally, the Assistant U.S. Attorney assigned to the case is obviously not going to have the luxury of researching and investigating a case to the same degree as a Strike Forces Attorney would because of other pressing time commitments which come with that office.

In my opinion, the best management model in this area would be a system with clear centralized control which directs the decision making process down the chain of command. The administration's proposal to decentralize control into U.S. Attorneys' offices will mean 94 different decision making models regarding organized crime cases. One central decision is more easily modified or overruled than 94 separate decisions, especially if the 94 decision makers are presidential appointees. The administration's current proposal of having a section chief in Washington who will oversee and coordinate the Organized Crime program does not solve this problem. A section chief will be powerless to effectively change or modify any decisions made in the field by the U.S. Attorney and will be hamstrung in his inability to resolve disputes which will arise between districts. Decision making will be forced up the chain of command rather than down it.

E. Loss of Case Selection Quality Control.

Finally, I believe the quality of cases brought in the organized crime area will greatly suffer. It is clear, at least from my experience in the Money Laundering Task Force in Florida, that complicated and complex cases require a great deal of time to investigate and prepare for trial. This long-term approach generally results in a better prepared and presented government case. The normal Assistant United States Attorney simply does not have the luxury of extensive case preparation time because of the heavy referral work from all federal investigative agencies. The Assistant United States Attorney who normally has 4 to 10 cases under indictment will experience a heavy trial calendar. The consequence is that the Assistant U.S. Attorney must rely heavily on the experience and judgment of agents during the investigative stage and direct his or her focus toward litigation of the issue. Organized crime prosecutors, on the other hand, deal with only one or two federal agencies, principally the FBI, and can investigate a single matter for months, even years if necessary. They do not have the pressure from the U.S. Attorney to indict tax cases or drug cases or, for that matter, any other types of cases. They can focus solely on the long-term development of organized crime matters. While productivity may not be as great when compared with an Assistant United States Attorney, the long-term impact has been very significant. A management weakness with the Strike Forces has been the lack of additional resources necessary to effectively deal with the organized crime issue.

Additionally, the pay scales vary adversely between Strike Force attorneys and Assistant U.S. Attorneys. Additionally, experienced prosecutors make decisions based upon clearly articulated organized crime goals. Prosecution targets fall within the national priorities set by the Organized Crime Section, and are not targets of local interest.

III. CONCLUSION.

My experience as an Assistant United States Attorney, a leader of a task force in Miami, Florida, a Chief of the Narcotic Section and a policy maker for the Deputy and Associate Attorney General of the United States leads me to the conclusion that merging the Strike Forces, while politically gratifying to the various United States Attorneys, has too many negative implications to allow it to carry out an effective policy against organized crime. The target selection process would become too political with a change to the United States Attorney's office; there would be a loss of experienced cadre of organized crime prosecutors; and there would be a loss of national policy in the organized crime area. Alternatively; it would create a decision making process which is driven by the local United States Attorney and which could result in major disputes between districts over the control of various cases. Finally, the quality of cases would suffer due to prosecution pressures which normally flow through an Assistant United States Attorney in performing his function. Based on the past experience of the OCDE Task Force program with voluntary guidelines, the idea that such guidelines will suffice to control the case load and allocation of resources to organized crime areas will not work.

A better approach might be to reform the existing system rather than kill it. There is a need to review the leadership of the Strike Forces, keeping the experienced aggressive prosecutors and discarding those who view the job as a retirement post or refuse to cooperate with either the U.S. Attorneys or the FBI. There is likewise a need to increase the number of positions within the Organized Crime Section to finish the job of eliminating this criminal problem in our country. Reorganizing that effort now will only allow organized crime "families" to grow and spread. Strike Forces attorneys should be paid the same salary as their counterparts in the U.S. Attorney's office. There should be more consultation between various Strike Forces chiefs and United States Attorneys in the various districts to keep the U.S. Attorney properly advised as to what cases are being considered for prosecution and when they would be prosecuted. Likewise, the Attorney General should have the power to remove U.S. Attorneys for reasonable cause. Clear chain of commands are essential to effective administration of justice. The best policy decision would be to leave the Organized Crime Strike Forces intact as a anonymous unit of the Department of Justice with sole responsibility for organized crime enforcement.

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STATEMENT
OF
EDWARD A. McDONALD
CONCERNING
THE ABOLITION OF THE FEDERAL ORGANIZED CRIME STRIKE FORCE PROGRAM

UNITED STATES SENATE

COMMITTEE ON THE JUDICIARY

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

I appreciate your giving me the opportunity to present my views on Attorney General Thornburgh's proposal to "merge" the Justice Department's Organized Crime Strike Forces into their respective United States Attorneys' offices. I bring to this issue almost 17 years experience as a prosecutor, over five years with the New York County District Attorney's Office and eleven and a half years with the Department of Justice. I joined the Department in 1977 as the Assistant Attorney in Charge of the Brooklyn Strike Force and became the Attorney in Charge of that office in 1982. I remained with the Strike Force until June 2 of this year, when I became a partner in the New York law firm of Reboul, MacMurray, Hewitt, Maynard & Kristol. Thus, unlike my former colleagues in the Organized Crime and Racketeering Section who have been silenced on this matter, I am now free to provide a current insider's perspective on the Attorney General's ill-conceived notions about the Department's organized crime program and how it can be improved.

My initial impulse is to rely on the old adage that has become a cliche in the current debate -- "If it ain't broke, don't fix it." To be sure, the Strike Force program "ain't broke"; at least it had not been until last February when the Attorney General and his spokesman, David Runkel, began their campaign for abolition, euphemistically called "merger". Indeed, during the past decade, the Strike Force program has flourished.

In city after city, the Strike Forces have successfully prosecuted the hierarchy of every significant organized crime family. Countless labor racketeers, unscrupulous businessmen, corrupt public officials, and large-scale narcotics traffickers, who had conducted their criminal activities for years with impunity and without detection, have been convicted. Forfeitures in the hundreds of millions have been obtained. And for the first time, industries that have been captured by organized crime face the prospect of being freed from that domination if the Department's effort is not weakened. Unquestionably, the achievements of the attorneys in the Strike Force program, never numbering more than 150, are unprecedented - not only in the history of the war against organized crime but in the annals of the entire Department of Justice as well.

In view of these successes and the cost-effective way in which they were achieved, any suggestion that the program be eliminated would appear to border on the inane. Nonetheless, the Attorney General's public statements reveal a resolute commitment to abolish the Strike Force program, and in these circumstances, facile cliches and the cavalier reliance on an established record of accomplishment are not adequate in response.

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As you well know, the organized crime problem in the United States is not a simple matter. La Cosa Nostra families and other organized crime groups, while not abandoning traditional criminal activities, have advanced well beyond loansharking, narcotics trafficking, gambling, and old-fashioned crimes of violence. Throughout the country, these groups have invaded countless industries, labor-unions, and other legitimate institutions where they perpetrate a infinite variety of complicated crimes. Both the traditional and the more sophisticated activities of these highly disciplined and insulated criminal groups are characterized by an almost impenetrable code of silence and a wall of protection in the form of businesses and other ostensibly legitimate fronts, complex paper trails, and in some cities, liaisons with corrupt public officials.

In these situations, effective prosecutions take years to develop. Experience reveals that success is achieved only after many false starts and often after seemingly endless prosecutions after which lower level figures are ultimately compelled to give up their superiors. In addition, the most effective investigative tools, such as electronic surveillance, long-term undercover operations, and the analysis of mounds of documents and other materials obtained by grand jury investigation, take years to implement and complete. Also, the RICO prosecutions that have proved to be the most effective means of eliminating significant criminal groups and their influence and resources usually take years to develop and consume enormous amounts of time in pre- and post-indictment litigation, trial, and appeal. Finally, in virtually all cases directed at significant organized crime families and the industries and institutions that they control, one prosecution will never do the trick. Those convicted all too often are replaced by others who are routinely confident that law-enforcement, satisfied with short-term achievements and public acclaim, will declare victory and move on to something else. Consequently, time, patience, and the long-term commitment to investigative projects are essential to a serious and effective organized crime program.

The accomplishments of the Strike Force program in the 1980's reflect the Organized Crime and Racketeering Section's recognition of the necessary components of an effective organized crime program. Indeed, the Strike Forces were specifically mandated to commit particular resources exclusively to the long-term, continuous, intensive investigation and prosecution of significant organized crime cases. In carrying out their mandate, the Strike Forces were able to attract an extraordinarily talented group of experienced career professionals who have proved to be especially dedicated and whose tenures have greatly exceeded those of their contemporaries in the United States Attorneys' offices in Strike Force cities. These attorneys have also acquired a special understanding of the inner workings of organized crime, labor racketeering, and the industries and businesses that are poisoned by mob domination. At the same time, they have developed an unparalleled level of expertise in the use of the sophisticated investigative and prosecutive tools that are most effective in organized crime and racketeering cases.

All of this is in jeopardy if the Strike Force program is eliminated. In the short term, while it now appears (contrary to what the Attorney General's spokesman previously told the Wall Street Journal) that Strike Force attorneys would be offered positions in the United States Attorneys' offices, many if not most of the attorneys in the program, especially the more experienced, would resign. This has already occurred in the nation's largest Strike Force in Brooklyn. Since May, when it became clear that the Attorney General was committed to abolishing the program, nine of the 15 attorneys on the staff, including the Strike Force Chief, the two deputy chiefs, the special counsel, and the two most senior trial attorneys, have either resigned or announced that they will be resigning before the projected abolition date, October 1. Many senior attorneys in other Strike Forces have also announced their resignations.

The departures of many career professionals will not only deprive the Department of their experience and expertise in future investigations, but their loss could seriously disrupt many current investigations of extraordinary significance. Indeed, if "merger" were effectuated, we could expect a lengthy grace period for the mob, with investigations abandoned and delayed while reorganization is implemented and Assistant United States Attorneys with no experience in organized crime and racketeering cases try to cope while receiving on-the-job training.

It might be argued that policy matters within the Department should not be influenced by the bruised egos of self-centered civil servants. But the egos of line attorneys are not at play here. It is true that the Strike Force program is characterized by an independent _esprit de corps_ and fierce loyalty to the Organized Crime and Racketeering Section. But Strike Force attorneys are also convinced that the current program is the appropriate way to wage the war against organized crime, and they are reluctant to face uncertain futures in United States Attorneys' offices, especially where the incumbents have been most vocal in expressing their disdain for the Strike Force concept. Furthermore, Strike Force attorneys have received little encouragement from the Department's current administrators. Indeed, the manner in which the Attorney General and his staff have handled their proposal has added insult to expected injury. In view of their achievements and long-term dedication to the Department, Strike Force attorneys have the right to expect more than piecemeal pronouncements about their futures in often contradictory newspaper accounts quoting faceless staffers in Washington who appear to know nothing about organized crime and have described the current Strike Force program as if it were that which existed in Pittsburgh almost 20 years ago.

"Merger" would also have serious adverse consequences in the long run. The tenures of United States Attorneys are measured by their accomplishments -- _while they are in office_. They receive no credit for matters commenced and investigated during their terms that come to fruition after they leave office. Consequently, many United States Attorneys, who generally remain in office for only four or five years, are invariably motivated to produce short-term results. Thus, it is inevitable that United States Attorneys, with more diversified agendas and shifting pressures and influences, will feel compelled to assign their best and most experienced attorneys to either what appear to be the more important matters of the day or to matters that can be quickly resolved. All this, of course, would be at the expense of the organized crime program, which requires the long-term, intensive commitment of resources.

Proponents of "merger" have pointed to the United States Attorney's Office in the Southern District of New York as a shining example of how United States Attorneys are capable of conducting an effective organized crime program. However, the record of the Southern District since 1976, when "merger" took place in that office, actually demonstrates why Strike Forces are necessary.

It can not be disputed that during the tenure of Rudy Giuliani, the Southern District had enormous success in prosecuting organized crime. But what happened before he took office in 1983? Mr. Guiliani's predecessors also had outstanding records of achievement--but not in the area of organized crime. While they devoted their resources to other pressing problems, significant organized crime cases were few and far between. Indeed, the chief of the Southern District's so-called "Strike

Force unit" candidly admitted in a memo to the Criminal Division in 1980 that his unit's productivity had been lacking and that they had failed to make effective use of prosecutorial tools such as the RICO statute and electronic surveillance. At the same time, the Brooklyn Strike Force, with stable priorities and commitments, continued to prosecute many important organized crime and racketeering cases in the same city.

Mr. Giuliani's entire performance in office also proves my point. During the period 1983 through 1986, organized crime was his priority. More than 20 assistants were assigned to work on organized crime cases, and several important cases were effectively prosecuted. In one instance, Mr. Guiliani dramatically declared that he would personally try the "Commission Case" against several New York family bosses. However, by 1987, after several successful organized crime prosecutions and a spate of publicity announcing the demise of the mob, Mr. Guiliani shifted his focus to public corruption and business crimes. The mob, of course, was still in business, in many areas untouched by recent prosecutions. Nonetheless, the complement of assistants assigned to the Southern District's organized crime unit was reduced by more than half, and the public corruption and securities frauds bureaus were greatly expanded. Almost symbolically, Mr. Guiliani himself withdrew from the "Commission Case" and tried Bronx Democratic leader Stanley Friedman instead on political corruption charges having nothing to do with organized crime.

There is every reason to believe that a similar pattern would be followed in other United States Attorneys' offices if "merger" took place. Given the long-term, frustrating nature of organized crime investigations and the pressures on United States Attorneys for quick results, it is reasonable to expect that they would dedicate both the quality and quantity of their resources to other areas at the expense of the organized crime program.

There are other reasons why the Strike Force program should not be abolished. For example, "merger" would effectively deprive the Department of the benefits derived from the Organized Crime and Racketeering Section's coordination of an organized crime program on a national basis. The Section's executive staff has the responsibility for looking at the big picture. Their agenda is national in scope and their mandate is not clouded by parochial concerns. Unquestionably, the Section has a proven record of effectiveness in devising and implementing through the Strike Forces a national organized crime program. While taking into account the disparate nature of the organized crime problem in various regions of the country, the Section has recognized that organized crime groups, particularly the La Cosa Nostra families, do not confine their activities to specific locales but conduct their conspiratorial affairs throughout the nation. Also, the Section has recognized that racketeering within significant large unions and in several mob-influenced industries and businesses is national in scope. Since the Strike Forces are directly responsible to their superiors in Section headquarters, Section chiefs have been able to provide and ensure continuity of management, strategic planning and a base of intelligence, nationwide coordination, and quality control.

The United States Attorneys, on the other hand, are autonomous presidential appointees usually with short tenures and individualized, regional priorities that might often be inconsistent with national policy. Moreover, United States Attorneys are independent of each other and have demonstrated little inclination for cooperative ventures by frequent bitter turf battles among themselves. Despite current assurances that the United States Attorneys would be mandated to implement a national organized crime program and to commit specified resources, there are no guarantees. Indeed, in view of their autonomous character and the independence that many United States Attorneys have demonstrated, it is more likely that United States Attorneys would follow their own agendas while paying bureaucratic lip-service to national directives.[*]

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[*] In his statement of June 19, 1989, the Attorney General announced that his "merger" plan would include the "creation" of an "Organized Crime Council" with members from the Justice Department and "each federal investigative agency involved in the fight against organized crime" in order "to oversee the national effort against organized crime." So important is the "creation" of this Council that it is the very first point in the Attorney General's plan. In fact, such a Council, with members from the Justice Department and every relevant investigative agency, has been in existence for more than 15 years and has held meetings almost every month in Strike Force cities throughout the country during that entire period. Notably most of these important sessions have been cancelled during the current Attorney General's tenure while the question of "merger" has been discussed.

There is also a danger that the invaluable cooperation provided by local prosecutors and other local law enforcement authorities in many important organized crime and racketeering cases would be lost if merger were to occur. In announcing his plan for "merger", the Attorney General said, "More effective alliances with state attorneys general, local district attorneys and state and local law enforcement agencies would also result from this change." The Attorney General provided no explanation for his claim; nor did his spokesman, Edward Dennis, the Assistant Attorney General in Charge of the Criminal Division, when he testified before the House Subcommittee on Criminal Justice. In fact, local authorities are often reluctant to cooperate with federal officials with whom they do not have long-standing relationships and whom they do not expect to remain in office for long periods. In addition, United States Attorneys are political appointees and often have political ambitions themselves. Local law enforcement officials, who are usually in office as a result of politics, either by election or appointment (and who are usually members of the Democratic Party in the urban areas where there is a large concentration of organized crime), are hesitant to cooperate with potential political rivals, especially those in a different political party. On the other hand, the longevity of Strike Force attorneys and their independent political nature have proved during the last two decades to be essential in the development of the cooperation for which the Department purports to strive.

The abolition of the Strike Forces would also create a public perception that the Justice Department is no longer serious about eliminating organized crime. For twenty years, the Strike Force program has been the extremely visible symbol of the Justice Department's long-term commitment to the war against organized crime. It would be one thing if the Strike Forces had been marginally successful, but in virtually every large city in the country, they have had phenomenal success. Destroying the program would simply send the wrong message. The Attorney General might try to allay public concerns by describing the program as a "merger" or by continuing to call new organized crime bureaus "strike force units". But as the public outcry that has already arisen in response to the Attorney General's proposal demonstrates, the public will not be deceived by euphemisms and labels. The Attorney General himself seems to recognize this. Indeed, in an interview on this subject with the Los Angeles Times in April, he said, "If I could write the headline on your story, it would be 'U.S. to Step Up War on Mob,' even though I know I'll see headlines 'U.S. Backs off in War on Mob.'"

It is important that the citizens of this country, especially potentially cooperative witnesses and the victims of racketeering, understand that the Department is committed to fighting the war against organized crime. It is even more important that the targets of that war, who have been on the run in many Strike Force areas, also understand this. Indeed, one can only wonder what John Gotti and his associates at the Bergen Hunt & Fish Club think about the elimination of the Brooklyn Strike Force!

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So why does the Attorney General want to abolish the Strike Force program? In February, he was telling reporters that the Strike Forces were staffed by inexperienced prosecutors so that the organized crime program presumably would benefit from the participation of more experienced assistant United States attorneys. The Attorney General now seems to have abandoned his erroneous notions about the caliber of Strike Force attorneys.

The Attorney General has also said that "merger" would eliminate the all too frequent duplication of effort and competition between Strike Forces and United States Attorneys' offices. Perhaps that was the Attorney General's experience in Pittsburgh almost 20 years ago. But it has not been mine. In the last eleven years in Brooklyn, my predecessor and I haggled with the United States Attorneys in only three of the thousands of cases that were presented to us. (This was at a time when there was usually what amounted to open warfare between the United States Attorneys in the Eastern and Southern Districts of New York over cases). Moreover, we never duplicated our efforts. There is simply too much work to waste time doing what someone else is doing. The current United States Attorney and I strongly disagreed about the future of the Strike Force program. Nonetheless, in three years, we never once disagreed over who should handle a case. Indeed, the United States Attorney and his assistants were extremely cooperative and a pleasure to work with.

In any event, even if there are conflicts over cases in other Strike Force cities, there are guidelines in place to deal with those problems. The United States Attorneys are - and are clearly recognized in the guidelines as - the principal law enforcement officials in their districts. The investigative agencies decide at the outset whether organized crime elements are involved in a case and refer the matter to the appropriate office. If the agencies are mistaken in their assessments, the United States Attorneys then have the authority and, in fact, the responsibility to ensure "program purity" within the Strike Forces. Strike Force chiefs are obligated to keep United States Attorneys apprised of what they are doing. If United States Attorneys feel they are not getting sufficient input from Strike Force chiefs, they should simply require more information and greater accountability. How would any Strike Force chief in his right mind not accede to the wishes of the United States Attorney in this area? Under the guidelines, it is the United States Attorneys who are responsible for providing the Strike Force chiefs' performance ratings, the only standard used for determining salary increases.

I am really at a loss to find any other plausible reason for the dismantling of the Strike Force program. Some have suggested that the proposal is the result of the Attorney

General's personal animus towards the program dating from his tenure as United States Attorney in Pittsburgh. Others have speculated that the proposal has been made to mollify United States Attorneys who are chagrined over having to share the public spotlight with the Strike Forces or even that it is the result of lobbying by certain labor unions and other legitimate institutions that feel that they have been the focus of too much Strike Force attention. I cannot believe that these factors have been of any consequence. I certainly hope that they have not. There is simply too much at stake.

Finally, there is one point upon which all sides must agree. Whatever the decision, it should be made quickly. The Strike Forces have been in a state of limbo since February. Poor morale has paralyzed many Strike Force offices to such an extent that important investigations are being impeded. Strike Force attorneys who had no plans to leave have either already resigned or are out looking for jobs. Recruiting of both attorneys and support personnel is at a standstill, and many Strike Forces are poorly understaffed. Federal, state, and local investigative agencies are confused about the offices to which they should refer cases. And countless hours are simply wasted discussing the merits of the Attorney General's proposal and speculating about the future.

Decisive action should be taken immediately. To allow the program to languish in a state of ambiguity and uncertainty could ultimately prove the Attorney General to be right about the effectiveness of Strike Forces. But that would merely make the Attorney General a self-fulfilling prophet. And the only real winners would be the mob!

In view of the foregoing, the Attorney General should announce immediately that the Department has renewed its commitment to the Strike Force program and that the Strike Forces will continue - in full cooperation with the United States Attorneys - to wage the Department's all important war against organized crime.

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